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Federal Register

Friday
April 30, 1999

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WASHINGTON, DC

WHEN: May 18, 1999 at 9:00 am.

WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271, 278 and 279

RIN 0584–AC46

Food Stamp Program: Retailer Integrity, Fraud Reduction and Penalties

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to implement the Food Stamp Program retailer provisions included in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as well as the retailer provision included in the Federal Agriculture Improvement and Reform Act. This rule also contains a number of amendments to the current regulations to streamline the regulations. Most of the provisions in this final rule are nondiscretionary and required by law. The intent of this rule is to strengthen integrity and eliminate fraud in the Food Stamp Program by: ensuring that only legitimate stores participate in the program; improving the Department's ability to monitor authorized firms; and strengthening the penalties against firms which violate program rules.

EFFECTIVE DATES: The amendments in this rule at § 271.2, § 278.6(a), § 278.6(b)(2)(i), § 278.6(c), § 278.8(a), § 279.7(a), and § 279.10(d) were effective August 22, 1996. All other amendments in this rule are effective June 1, 1999.

FOR FURTHER INFORMATION CONTACT: Questions regarding this final rule should be addressed to Thomas O' Connor, Director, Benefit Redemption Division, Food Stamp Program, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, Virginia 22302, or by telephone at (703) 305–2418.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be not significant under Executive Order 12866.

Executive Order 12372

The Food Stamp Program (FSP) is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule and related notice(s) to 7 CFR Part 3015, Subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612). Samuel Chambers, Jr., the Administrator of the Food and Nutrition Service (FNS), has certified that this rule does not have a significant economic impact on a substantial number of small entities. This rule may have an effect on a limited number of retail food stores and other entities that are shown to be negligent in effectuating the purposes of the FSP by committing violations or fraud in the program. However, we do not believe this will have a significant effect on most small businesses.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, the proposed rule included a notice that announced our intent to submit revised application procedures and associated burden estimates to OMB for approval relative to the application(s) completed by retail food stores and meal service providers to request authorization and/or continued authorization to participate in the FSP.

There are three application forms used by firms that wish to participate in the program. These are the FNS–252, Food Stamp Application For Stores; the FNS–252R, Food Stamp Program Application for Stores-Reauthorization; and the FNS–252–2, Application to Participate in the Food Stamp Program for Communal Dining Facility/Others. These forms and associated burden hours have been approved by OMB under OMB No. 0584–0008 through October 31, 1999. The revisions to the authorization process contained in § 278.1(a) of this final rule do not impose new information collection, reporting or recordkeeping requirements.

The existing burden estimates, as approved by OMB through October 1999, are shown on the following chart:

Affected Public: Food Retail and Wholesale Firms, Meal Service Programs, certain types of Group Homes, Shelters, and State-contracted Restaurants.

Estimated Number of Respondents: 68,770.

Estimated Number of Responses per respondent: 1.

Estimated Time per Response: 0.229416; rounded to .23.

Estimated Total Annual Burden: 15,777.

APPROVED BURDEN FOR FORMS FNS–252, 252–2 AND 252R

Title	Number of respondents	Responses per respondent	Total annual responses	Burden hours per response	Total annual burden hours
FORM FNS–252	22,807	1	22,807	.4500	10,263
FORM FNS–252–2	1,803	1	1,803	.2000	361
FORM FNS–252R	44,160	1	44,160	.1167	5,153
Totals	68,770		68,770	.23	15,777

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect except as specified in the ''Effective Date'' paragraph of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. In the FSP, the administrative procedures are as follows: (1) for Program benefit recipients—State administrative procedures issued pursuant to 7 U.S.C. 2020 (e)(10) and 7 CFR 273.15; (2) for State agencies—administrative procedures issued pursuant to 7 U.S.C. 2023 set out at 7 CFR 276.7 (for rules related to non-quality control (QC) liabilities) or 7 CFR part 283 (for rules related to QC liabilities); (3) for program retailers and wholesalers—administrative procedures issued pursuant to 7 U.S.C. 2023 set out at 7 CFR 278.8.

Unfunded Mandate Reform Act of 1995

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments, and the private sector. Under section 202 of the UMRA, FNS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires FNS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule. This final rule contains no Federal mandates under the regulatory provision of Title II of the UMRA for State, local and tribal governments or the private sector of $100 million or more in any one year. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Background

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, (PRWORA) was enacted on August 22, 1996, and contained a number of provisions directly affecting the participation of retailers, wholesalers and other entities eligible to be authorized to participate in the FSP. All of the provisions of the law addressed in this rulemaking were effective on the date of enactment. Five of the provisions are nondiscretionary and were immediately implemented in the program through an implementing memorandum issued on September 16, 1996. These five provisions are incorporated into this final rule and they are identified as nondiscretionary in this preamble. Such nondiscretionary provisions are statutory requirements that the Secretary has no authority to change; therefore, such provisions or their implementation may not be modified by public comment. PRWORA provides discretion in the implementation of the remaining provisions of the law, and these provisions were proposed for public comment in the rule published on May 6, 1998. The Department encouraged all interested parties to comment on the discretionary provisions as set forth in the proposed rule. Four substantive comments were received from retail trade/interest groups, WIC State administering agencies and the headquarters of a large retail food chain. In addition, 187 identical letters referring to and expressing agreement with the comment sent by the aforementioned retail food chain headquarters were received.

This final rulemaking includes the following discretionary and nondiscretionary provisions:

- Revision in the definition of ''coupon'' (nondiscretionary);
- Establishment of a minimum six month waiting period before stores that initially fail to meet authorization criteria can reapply to participate in the program (nondiscretionary), and the establishment of longer periods of time, including permanent prohibition from participation, which reflects the severity of the basis for the denial of the firm's application or a firm's reauthorization in the program (discretionary);
- Authority for USDA, or its designees, to conduct preauthorization visits to applicant firms as specified by the Secretary (discretionary);
- Authority for USDA to disqualify firms based on inconsistent redemption data and suspicious account activity as documented through EBT system data (nondiscretionary);
- Authority to suspend the program participation of violating firms subject to a permanent disqualification pending the outcome of administrative or judicial review (nondiscretionary);
- Authority for USDA to establish authorization periods for the participation of retailers in the program (discretionary);
- Authority to disqualify retailers who intentionally submit falsified applications, including permanent disqualification of such retailers (discretionary); and,
- Authority to disqualify retailers that have been disqualified by State agencies responsible for the administration of USDA's Special Supplemental Nutrition Program for Women, Infants and Children (WIC) (discretionary), extension of the periods for disqualification of such FSP retailers and elimination of the FSP administrative and judicial review rights of such retailers (nondiscretionary).

This final rulemaking also includes a provision of the Federal Agriculture Improvement and Reform Act, Pub. L. 104–127, (FAIR), which provides a limitation on the mandatory permanent disqualification actions that may be taken by USDA for retailers found to be trafficking. Conforming and minor editorial revisions in response to the National Performance Review Regulatory Planning and Reform Initiative are also included in this rule.

FAIR Provision—Eligibility for Trafficking Civil Money Penalties

Section 401 of the FAIR limits mandatory permanent disqualifications for food coupon trafficking (with no possibility of avoiding disqualification by paying a trafficking civil money penalty) to instances in which: (1) owners are aware of violations or participate in the conduct of such food coupon trafficking violations or (2) it is the second investigation in which a trafficking violation was committed by firm management.

This provision amends the current automatic ineligibility of a firm for a civil money penalty (CMP) in lieu of permanent disqualification if the ownership or management of the firm was aware of, approved, benefited from or was involved in the conduct of the food coupon trafficking violations (§ 278.6(i)). The FAIR amendment expands the number of firms that may be eligible for such a CMP in lieu of permanent disqualification. The law provides that if such a violation represents first-time management food coupon trafficking, the firm may be considered eligible for the imposition of a CMP, if the firm documents that it meets all of the eligibility requirements for the CMP as specified in § 278.6 (i).

However, the expansion of eligibility for a CMP in lieu of permanent disqualification, as stipulated in the FAIR, does not apply to firms where it is shown that ownership or management was involved in trafficking in ammunition, firearms, explosives or controlled substances.

The May 6,1998 rule proposed that the provision be applicable to firm management in general, regardless of whether or not the same individual manager committed trafficking violations previously. For example, if an individual manager previously was dismissed from the position for committing trafficking violations, but a different manager of the same firm subsequently commits food coupon trafficking violations, the firm would not be eligible for a second CMP in lieu of permanent disqualification.

This provision was effective on April 4,1996, the date of enactment of the statute. It was implemented upon the date on which FNS offices received the implementing memorandum, and is applicable to all firms issued a final determination letter subsequent to receipt of the implementing memorandum by FNS offices. The implementing memorandum was issued on September 16,1996. The amendment made to § 278.6(i) of this regulation reflects this change. Comments were invited, however, on the proposed restriction which prohibits a CMP in lieu of permanent disqualification the second time management personnel of a firm commit trafficking violations, regardless of whether it was the same person in the management position that committed the previous violation(s). No comments were received on this issue; therefore, this provision of the rule is finalized as proposed.

One commentor did, however, indicate that if the owner/operator or firm management was unaware and uninvolved with the trafficking violations, the firm should be eligible for a CMP in lieu of permanent disqualification. Firms are currently provided this opportunity in accordance with the Food Stamp Act of 1977, as amended (FSA), and the criteria outlined in § 278.6(i) of the regulations, and will continue to be provided this opportunity. Therefore, it appears that the commentor misunderstood the amendment made to the current provision. Moreover, the Department wishes to reiterate that the nondiscretionary provision included here expands eligibility of participating firms for a CMP in lieu of permanent disqualification for trafficking in the program.

Provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA)

The provisions of PRWORA related to retailer participation in the FSP represent a three-tiered approach to enhancing retailer compliance and integrity in order to further the purposes of the FSP and to reduce fraud in this critically important domestic food program. The provisions greatly reinforce USDA's efforts to effectively administer the FSP by improving the ability of the Department to screen applicant retailers prior to authorization, to control retailer performance subsequent to FSP authorization and to impose stiffer penalties against those firms found to be violating the public trust by committing FSP violations and defrauding the program. All commentors expressed agreement with these premises.

Pre-Authorization Screening

The participation of retailers in the FSP is a privilege, not a right. The PRWORA and the provisions of this final rulemaking will serve to increase the Department's ability to cut off fraud and abuse at the source by allowing more in-depth preauthorization screening of applicant firms and verification of the qualifications and continued eligibility of currently authorized firms to participate in the FSP.

Condition Precedent for Approval of Retail Food Stores and Wholesale Food Concerns

Section 831 of the PRWORA provides authority for USDA, its designee or State or local government officials designated by the Department, to conduct preauthorization visits to selected firms. This provision also gives discretion to the Secretary to designate such firms on the basis of size, location and types of items sold. Amendments to § 278.1(a) of the regulation reflect the Secretary's authority to conduct such preauthorization visits as contained in the statute.

Two comments were received on this provision. One commentor urged that history and longevity in the FSP should also be considered when making decisions regarding store visits. The Department agrees that other factors, such as those suggested with regard to history and longevity in the program, are appropriate to consider when prioritizing the conduct of store visits. The Department agrees that such factors will be taken into consideration when establishing store visit priorities.

A second commentor took exception with the provision as written in that they felt the regulation should be more prescriptive with regard to store visit criteria. The commentor suggested that the Department annually provide for a notice and comment rulemaking on how it intends to implement its authority to conduct store visits.

The Department has long had the authority to visit authorized and applicant firms in order to assess the eligibility of such firms for authorization in the program. The Department also has the discretion to prioritize the types of firms that will be visited based on its own assessment of Departmental resources, as well as upon review of areas of vulnerability in the operation of the program as defined by management information sources. Therefore, the provisions of this final rule with regard to the store visit provision remain as proposed.

Waiting Period for Firms That Fail To Meet Authorization Criteria

Section 834 of the PRWORA amends section 9(d) of the Food Stamp Act to require that a firm that does not qualify for authorization because the firm fails to meet the eligibility criteria for approval be prohibited from submitting a new application to participate in the FSP for a minimum period of 6 months. The statute also allows the Secretary to establish longer time periods, including a permanent prohibition from participation, that is reflective of the severity of the basis for the denial of the application.

Section 278.1(k) of the regulation was proposed to be revised to include the minimum 6-month prohibition from reapplication, which applies to those firms that are shown not to meet Criterion A or of the eligibility requirements of the FSA, (7 U.S.C. 2012(k)) and, for co-located wholesale/retail firms, the requirements of § 278.1(b)(1)(iv). Criteria A and B were incorporated into the definition of ''retail food store'' in the FSA, as amended by the Food Stamp Program Improvements Act of 1994, Pub. L. 103–225. While this change in the definition was effective immediately upon enactment of the law and has been implemented, a final rule incorporating this statutory change specifically in the regulations is currently in Departmental clearance.

As discussed in the preamble to the rule proposed on May 6,1998, prior to the passage of PRWORA, there was no waiting period for stores that wished to reapply to participate in the FSP after their application was denied because the stores failed to meet basic eligibility criteria for authorization. Such stores could adjust the types of staple food

items that they offered for sale in order to meet minimal standards and reapply immediately, and then decrease their inventory after obtaining authorization. Such firms tend to be stores that do not effectuate the purpose of the FSP. As proposed, this final rule provision applies to initial applicants as well as to those firms being reviewed for the purpose of reauthorization, or any other purpose, that are found not to meet program eligibility requirements. At the time of initial application and reauthorization, firms will be provided notice of this provision. The 6-month minimum prohibition is nondiscretionary.

One commentor asserted that such waiting periods should not be applicable to firms seeking reauthorization in the program, indicating that the statute does not extend the authority to apply such periods to such firms. The Department disagrees with the commentor. The waiting periods apply to all firms that apply to participate or apply to continue to participate in the program.

The proposed rule also included provisions to implement the Secretary's authority to establish longer periods of time during which a firm would be restricted from reapplying for program authorization. Section 834 of PRWORA provides that the Secretary may establish these time periods, including permanent denial of a firm's ability to be authorized in the program, depending upon the severity of the reason for the denial of such a firm's initial or subsequent application for authorization or reauthorization. Section 278.1(b)(3) of this final rule sets out the criteria that are to be used by FNS to make determinations regarding reapplication restrictions against firms that are denied authorization or reauthorization, or are otherwise withdrawn from the program. In addition, § 278.1(k) details the periods of time for which a firm will be denied authorization in the program in response to the criteria set out in § 278.1(b)(3). These provisions are applicable to denials of initial authorization and reauthorization in the FSP, as well as to the continued authorization of a firm for participation in the program.

Section 9 of the FSA provides the Secretary with the authority to consider the business integrity and reputation of program applicants when determining the qualifications of such applicants for participation in the program. The business integrity of a firm is critically important to the effective operation of the FSP.

Two comments were received on the proposed provision dealing with the business integrity standards. These comments expressed concern that the standards proposed in the May 6, 1998 rule were very broad. In particular, the commentors suggested that applying business integrity standards to non-managerial employees of participating firms was, in essence, ''casting too wide a net'' in terms of corporate responsibility and liability. These commentors further suggested that the FNS proposal assumes that store owners have inexpensive, efficient means of discovering past misconduct of non-managerial employees, which they do not. Commentors indicated that discharging employees or not hiring a prospective employee for a non-company, non-FSP related issue could subject the employer to FNS penalties if the employee is kept on board, but could lead to potential lawsuits or union problems if the employee is discharged. Finally, commentors noted that the proposed business integrity standards were too broad, too vague and offer too much discretion to FNS Officers in Charge to interpret.

In response to these comments, the provisions have been revised in this final rule. First, the standards no longer include references to the business integrity of non-owner or non-managerial personnel. However, the criteria in this final rulemaking still focus on the business integrity and reputation of the ownership and management of those firms seeking authorization or reauthorization in the program. Fraudulent activity in the FSP or other government programs, or in business-related activities in general, reflects on the ability of a firm to effectuate the purposes of the FSP and abide by the rules governing the program. The Department has refined the business integrity criteria in this final rule and believes that the standards included here are appropriate when assessing the business integrity of a firm.

This rulemaking provides that a firm be permanently denied the opportunity for reapplication if a firm is denied authorization or reauthorization in the program on the basis of criminal convictions or a finding of civil liability of the ownership or management of an applicant firm for reasons that affect the business integrity of such firms. As provided in this final rule, business integrity matters that fall under this category include conviction or civil judgment for offenses such as: embezzlement, theft, forgery, bribery, false statements, receiving stolen property, false claims, or obstruction of justice; commission of fraud in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; and violation of Federal, State and/or local consumer protection laws or other laws relating to alcohol, tobacco, firearms, controlled substances and/or gaming licenses.

This final rule retains the proposed provision that firms removed for administrative reasons from Federal, State or local programs shall be prohibited from applying for the FSP during the period of removal from such programs. Such action in the FSP would be taken, for example, if a firm is removed from another federal program, or had their State or local liquor or lottery license suspended.

In response to two comments received, the final rule has been revised to refine the proposal in that firms which have administrative findings brought against them by Federal, State or local officials that do not give rise to removal from such programs, but for which FNS determines a pattern exists evidencing a lack of business integrity, shall be prohibited from applying for the FSP for one year, effective from the date of denial in the program. The proposed rule originally stipulated that such firms would be denied authorization in the FSP for 3 years and included violations committed by personnel of the firm. This final rule applies this provision only if such violations are committed by the owner, officer, or manager of a firm. Moreover, this final rule provides that a ''pattern evidencing a lack of business integrity'' means 3 or more instances of noncompliance with other Federal, State or local program requirements. For example, if a firm was fined for liquor license infractions committed by an owner, officer or manager, and 3 such fines were imposed over a period of time, action to suspend the firm from applying to the FSP would be taken.

The final rule retains the proposed provision that firms that attempt to circumvent a period of disqualification, a civil money penalty, or a fine imposed for FSP violations shall be denied the opportunity to apply for the program for a period of 3 years.

Further, this rulemaking at § 278.1(b)(3)(iv) retains the provision of the proposed rule that firms in which violations of the FSP have been administratively and/or judicially established but a sanction has not been served, shall be denied the opportunity to apply for the program for a period of time equivalent to the appropriate sanction period that should have been served. This provision would apply, for

example, when a firm goes out of business prior to FNS' sanctioning the firm for FSP violations that were uncovered prior to its going out of business. If the same owner seeks authorization for a different store, such a store would not be immediately authorized in the FSP and would be subject to a waiting period equivalent to the period of time that the previously-investigated firm under that ownership would have been disqualified. This waiting period would be applicable whether or not the previously-investigated firm was authorized in the FSP or was an unauthorized firm found to be violating the FSP.

This provision also applies to persons who are owners or officers of multi-unit firms, as well as managers who are employed by the owner of a multi-unit firm. If an owner or officer of a multi-unit firm personally committed FSP violations at one unit of a multi-unit firm, and a sanction was not served, this rule finalizes that an applicant firm under that same ownership would be denied authorization for a period of time that should have been served for the previously committed violations. Moreover, as currently provided in the FSP regulations, the authorization of other units of such multi-unit firms may be withdrawn in response to violations of the FSP by ownership.

If management personnel of such multi-unit firms commit sanctionable violations at more than one location, this would indicate that such actions are reflective of the overall operating practice of the firm, thus indicating a lack of business integrity on the part of ownership. If such violations occur and an appropriate penalty was not served, the applicant firm will be denied or restricted from applying for authorization in the FSP for the period of time that should have been served by the firm for violations committed at these other locations under the same ownership. The period would be equivalent to the longest sanction period that would have been served for the most serious of violations committed by any one of the associated firms.

Finally, this final rule modifies the proposed rule with regard to other evidence reflecting on business integrity. One commentor believed that the provision as proposed was very broad. Therefore, this final rule refines the provision by stipulating that a one year period of denial in the program would result from the commission of any other offense (other than convictions, judgments, removal or patterns of noncompliance) which: (1) Reflects negatively on the business integrity or business honesty of the owners, officers or managers of a firm; and (2) seriously and directly affects the present responsibility of a person.

The proposal also made an editorial change, unrelated to PRWORA's provisions, to conform the language of § 278.1(k), *Denying authorization* and § 278.1(l), *Withdrawing authorization*. A further editorial change was made to § 278.1(m) so as to conform this section with § 278.1(k) and § 278.1(l). These revisions do not result in any substantive change in the program, but simply clarify the intent that the provisions are applicable to both denials and withdrawals in the program. In addition, language was added in § 278.1(k) and § 278.1(l) of this rule to reflect the current prohibition against participation in the program as specified in the current rule at § 278.6(f)(4), which prohibits authorization for participation of firms that have outstanding transfer of ownership civil money penalties owed to FNS. This final rule implements these changes as proposed.

Authority To Establish Authorization Periods

Section 832 of PRWORA provides authority for the Secretary to establish specific time periods during which a firm may be authorized to accept food stamps. The intent of this provision is to eliminate the current open-ended authorization of firms in the program.

It was proposed that no firm be assigned an authorization period for participation in the FSP for longer than five years. Moreover, the proposal provided that the FNS Officer in Charge may assign a lesser period of authorization, depending on the circumstances of the particular firm.

Two comments were received on this proposed provision. One commentor favored the provision, while the second disagreed in general with the proposed five year maximum authorization period, particularly with regard to firms that are longstanding participants in the program. In addition, this commentor voiced concerns with providing general discretion to FNS Officers in Charge to authorize firms for less than the five year period on the basis of undefined circumstances surrounding a firm's participation or approval in the program.

The final rule has been revised to comply with the intent of the statute that authorization periods be specified in the program. The Department agrees with the comment discussed above, and, therefore, this final rule provides that all firms will be authorized for a maximum period of five years. This final rule does not provide FNS Officers in Charge the discretion to authorize firms for lesser periods of time.

The Department believes that the five year authorization period is reasonable and necessary for the effective administration of the program. Moreover, the specification of an authorization period in no way precludes FNS from periodically requesting information from a firm or concern for purposes of reauthorization in the program or from withdrawing or terminating the authorization of a firm in accordance with program regulations. The Department will develop administrative procedures to ensure that, prior to the time of expiration of a firm's authorization period, the firm is provided with authorization materials and given the opportunity to submit such materials and information to enable FNS to evaluate the firm's qualifications for continued participation in the FSP. This provision is included in § 278.1(j) of the regulation.

Post-Authorization Controls and Stiffer Penalties in the Program

Retailers that abuse the privilege of authorization in the FSP will have that privilege revoked. The PRWORA includes a number of significant tools that will enhance the Department's ability to enforce the effectiveness of the FSP and the monitoring of retailers.

Authority To Suspend Stores Violating Program Requirements Pending Administrative and Judicial Review

Section 845 of PRWORA amends section 14 of the FSA to require that a permanent disqualification of a firm from the FSP be effective from the date of the firm's receipt of the notice of disqualification. The PRWORA also provides that if such an administrative action by FNS is reversed through administrative or judicial review, the Secretary is not liable for the value of any revenues lost by the firm during such a disqualification period. This nondiscretionary provision was effective upon the date of enactment of the law, and affects firms that are subject to permanent disqualification for trafficking in the program, as well as those firms subject to permanent disqualification for having been sanctioned twice before for violations of the program. These changes are found at § 278.6(b) of the final rule. Editorial revisions have also been made to §§ 278.8(a), 279.7(a) and 279.10(d). Since this provision is nondiscretionary, its implementation cannot be affected by public comment.

It is important to note that the statute specifically refers only to permanent

disqualification actions. Therefore, firms which request and are found to be eligible for a civil money penalty in lieu of permanent disqualification for trafficking are not affected by the immediate suspension requirement of the statute. Further, such firms would not be expected to pay the civil money penalty pending appeal and may continue to participate in the program pending appeal. One commentor agreed with the Department's assertion that immediate disqualification refers only to those firms not eligible for a civil money penalty in lieu of permanent disqualification, but pointed out that the preamble discussion in the proposed rule was not reflected in the regulatory language itself. In response to this comment, the language at §§ 278.6(b)(2)(i) and 278.6(c) has been clarified to account for this.

In addition, the commentor requested clarification as to how the period between receipt of the notice of immediate disqualification and the 10-day period for a firm to submit a request and documentation for a trafficking CMP is handled. The immediate disqualification pending appeal is effective upon the date of receipt of the *determination* letter by the firm. The current regulations at § 278.6(b)(1) provide that, prior to such a determination, the firm receives a letter of charges to which it may respond. It is at that time, subsequent to receipt of the charge letter, that the firm would be indicating whether or not it desires a CMP in lieu of permanent disqualification and would submit documentation in support of such a request. If it is determined that the firm is eligible for a trafficking CMP, the determination letter that follows would acknowledge that the firm has requested and documented its eligibility for a trafficking CMP, and thus could continue to participate in the program pending any appeal of the trafficking finding itself. However, once the determination is made that the firm is not eligible for a CMP in lieu of trafficking, the firm receives a determination letter that indicates the firm has been found to be ineligible for a CMP in lieu of permanent disqualification for trafficking and that the permanent disqualification is effective upon receipt of the determination letter. The firm, while disqualified, is eligible to appeal the determination. However, in those cases, the disqualification action cannot be held pending appeal because the firm has been permanently disqualified.

Investigations

Section 278.6(a) of the regulation was proposed to be amended in accordance with section 841 of PRWORA to make an editorial change stipulating that findings of program violations and the subsequent suspension or disqualification of a firm may be made based on evidence established through on-site investigations, inconsistent redemption data, or evidence obtained through a transaction report under an electronic benefit transfer system. This editorial change supports current program practice and USDA authority to enforce program compliance. The provision is nondiscretionary and is finalized in this rule.

Disqualification of Retailers Disqualified From the WIC Program

Section 843 of PRWORA amends section 12 of the FSA to require the Secretary to develop standards by which firms disqualified from the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) are to be reciprocally *disqualified* from participation in the FSP. Currently, the regulations provide for the withdrawal of such firms from the FSP in response to WIC disqualification action. Such withdrawals must run for a concurrent period of time. This has proven to be problematic in that it is sometimes difficult for the Food Stamp withdrawal action to catch up to the WIC disqualification, particularly if the WIC disqualification is for a 6 month period or less. Under the current regulations, a firm has the right to appeal the FSP action, and often, by the time the firm has appealed the FSP withdrawal, the WIC disqualification period is ending.

The change in the law provides that the FSP disqualification period (1) shall be for the same period of time as the WIC disqualification period; (2) may run consecutive to the WIC disqualification; and (3) shall not be subject to FSP administrative or judicial review. These provisions of the statute are nondiscretionary and are finalized in this rule.

In addition, the law stipulates that the Secretary establish criteria for such reciprocal disqualification actions. Current regulations at § 278.1(o) set forth the types of WIC violations that will result in withdrawal of a firm from participation in the FSP. The Department proposed to retain these same criteria, now found at § 278.6(e)(8), with some editorial changes to ensure that trafficking violations are fully covered in the listed violations. The WIC violations included here, therefore, represent very serious violations of the WIC Program that are comparable to serious violations of the FSP. These violations best represent the potential risk of violations of a similar nature being committed by unscrupulous firms in the FSP, thus necessitating reciprocal FSP action to protect the integrity of the FSP.

The Department solicited comments on the reciprocal disqualification standards set out in § 278.6(e)(8). One comment was received on these specific provisions. The commentor indicated concern that some WIC State agencies may be misinterpreting the standards set forth in the regulation, and that without the opportunity to appeal to the FSP to dispute such misinterpretations, the firm's reciprocal disqualification would be erroneous. Section 12(g) of the FSA does not allow a firm to appeal a reciprocal disqualification action taken by FNS. Editorial changes to this final rule have been made to conform to the language of the WIC program final rule, which provides some clarification to WIC State agencies. In addition, the preamble to that rule provides WIC State agencies with further clarification regarding WIC Program sanctions and guidance to assist those State agencies in appropriately classifying WIC Program violations.

Conforming changes to restrict those firms subject to reciprocal disqualification from eligibility for FSP administrative and judicial review are made to § 278.6(n), § 278.8(a), § 279.3(a)(2) and § 279.10(a) of this regulation. The changes made to these sections are nondiscretionary and are not subject to public comment.

Disqualification of Retailers Who Intentionally Submit Falsified Applications

Section 842 of the PRWORA amends section 12(b) of the FSA to authorize the Secretary to disqualify, including permanently disqualify, participating retailers who knowingly submit applications that contain false information about substantive issues. The May 6, 1998 rule proposed to permanently disqualify a firm if it is found that false information directly related to the firm's eligibility for authorization is knowingly submitted on the application. In addition, the rule proposed that in cases in which any false information is knowingly submitted that would impact on the ability of FNS to monitor and identify potentially violative firms, the firm shall be disqualified for three years.

The proposed rule outlined examples of the type of information that would be considered ''substantive'' for the purpose of determining eligibility, as

well as the type of information that is considered to be substantive from a monitoring standpoint. These examples, however, are not inclusive of all of the information that, if fraudulently submitted, may result in disqualification of a firm.

The rule also proposed to deny authorization of any such firm which is found to have knowingly submitted false information on the application at the time of initial application processing. It was proposed that such firms be denied for the same period of time for which they would be disqualified under § 278.6(e). The Department encouraged comments on this discretionary provision; however, no comments were received. Therefore, the revisions as proposed are finalized in § 278.6(e) and § 278.1(k) of this rule.

List of Subjects

7 CFR Part 271

Administrative practice and procedure, Food stamps, Grant programs—social programs.

7 CFR Part 278

Administrative practice and procedure, Banks, banking, Claims, Food stamps, Groceries—retail, Groceries, General line—wholesaler, Penalties.

7 CFR Part 279

Administrative practice and procedure, Food stamps, Groceries—retail, Groceries, General line—wholesaler.

Accordingly, 7 CFR Parts 271, 278 and 279 are amended as follows:

1. The authority citation for parts 271, 278 and 279 continues to read as follows:

Authority: 7 U.S.C. 2011–2032.

PART 271—GENERAL INFORMATION AND DEFINITIONS

2. In § 271.2, the definition of ''coupon'' is revised to read as follows:

§ 271.2 Definitions.

* * * * *

Coupon means any coupon, stamp, type of certificate, authorization card, cash or check issued in lieu of a coupon, or access device, including an electronic benefit transfer card or personal identification number issued pursuant to the provisions of the Food Stamp Act of 1977, as amended, for the purchase of eligible food.

* * * * *

PART 278—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND INSURED FINANCIAL INSTITUTIONS

3. In § 278.1:

a. Paragraph (a) is revised;

b. Paragraph (b)(3) is revised;

c. Paragraph (j) is revised;

d. Paragraph (k) is amended by revising the first sentence of paragraph (k)(2) and redesignating the paragraph (k)(2) as paragraph (k)(7), and adding new paragraphs (k)(2), (k)(3), (k)(4), (k)(5) and (k)(6);

e. Paragraph (l) is amended by redesignating paragraphs (l)(1)(iii) through (l)(1)(v) as (l)(1)(v) through (l)(1)(vii), respectively, revising newly redesignated paragraph (l)(1)(vi), and adding new paragraphs (l)(1)(iii) and (l)(1)(iv);

f. The introductory text of paragraph (m) is revised;

g. Paragraph (o) is removed, and paragraphs (p) through (t) are redesignated as paragraphs (o) through (s), respectively; and

h. Newly redesignated paragraph (o) is revised and newly redesignated paragraph (q) is amended by removing references to (r)(2), (r)(3), (r)(1)(ii), (r)(1)(i), (r)(1)(iv), (r)(2)(ii), (r)(2)(iv), (r)(3)(iv) and (r), wherever they appear, and adding in their place references to (q)(2), (q)(3), (q)(1)(ii), (q)(1)(i), (q)(1)(iv), (q)(2)(ii), (q)(2)(iv), (q)(3)(iv) and (q), respectively.

The revisions and additions read as follows:

§ 278.1 Approval of retail food stores and wholesale food concerns.

(a) *Application.* Any firm desiring to participate or continue to be authorized in the program shall file an application as prescribed by FNS. Such an application shall contain information which will permit a determination to be made as to whether such an applicant qualifies, or continues to qualify, for authorization under the provisions of the program. FNS may require that a retail food store or wholesale food concern be visited to confirm eligibility for program participation prior to such store or concern being authorized or reauthorized in the program. Required visits shall be conducted by an authorized employee of the Department, a designee of the Secretary, or an official of the State or local government designated by the Secretary. FNS shall deny or approve the application, or request additional information from the applicant firm, within 30 days of receipt of the initial application.

(b) *Determination of authorization.*

* * *

(3) *The business integrity and reputation of the applicant.* FNS shall deny the authorization of any firm from participation in the program for a period of time as specified in paragraph (k) of this section based on consideration of information regarding the business integrity and reputation of the firm as follows:

(i) Conviction of or civil judgment against the owners, officers or managers of the firm for:

(A) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;

(B) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, or obstruction of justice; or

(C) Violation of Federal, State and/or local consumer protection laws or other laws relating to alcohol, tobacco, firearms, controlled substances, and/or gaming licenses;

(ii) Administrative findings by Federal, State or local officials that do not give rise to a conviction or civil judgment but for which a firm is removed from such a program, or the firm is not removed from the program but FNS determines a pattern exists (3 or more instances) evidencing a lack of business integrity on the part of the owners, officers or managers of the firm;

(iii) Evidence of an attempt by the firm to circumvent a period of disqualification, a civil money penalty or fine imposed for violations of the Food Stamp Act and program regulations;

(iv) Previous Food Stamp Program violations administratively and/or judicially established as having been committed by owners, officers, or managers of the firm for which a sanction had not been previously imposed and satisfied;

(v) Evidence of prior Food Stamp Program violations personally committed by the owner(s) or the officer(s) of the firm at one or more units of a multi-unit firm, or evidence of prior Food Stamp Program violations committed by management at other units of multi-unit firms which would indicate a lack of business integrity on the part of ownership and for which sanctions had not been previously imposed and satisfied; or

(vi) Commission of any other offense indicating a lack of business integrity or business honesty of owners, officers or managers of the firm that seriously and

directly affects the present responsibility of a person.

* * * * *

(j) *Authorization.* Upon approval, FNS shall issue a nontransferable authorization card to the firm. The authorization card shall be valid only for the time period for which the firm is authorized to accept and redeem food stamp benefits. The authorization card shall be retained by the firm until such time as the authorization period has ended, authorization in the program is superseded, or the card is surrendered or revoked as provided in this part. All firms will be authorized in the program for a period of 5 years. The specification of an authorization period in no way precludes FNS from periodically requesting information from a firm for purposes of reauthorization in the program or from withdrawing or terminating the authorization of a firm in accordance with this part.

(k) *Denying authorization.* * * *

(2) The firm has failed to meet the eligibility requirements for authorization under Criterion A or Criterion B, as specified in the Food Stamp Act of 1977, as amended; or, for co-located wholesale/retail firms, the firm fails to meet the requirements of paragraph (b)(1)(iv) of this section. Any firm that has been denied authorization on these bases shall not be eligible to submit a new application for authorization in the program for a minimum period of six months from the effective date of the denial;

(3) The firm has been found to lack the necessary business integrity and reputation to further the purposes of the program. Such firms shall be denied authorization in the program for the following period of time:

(i) Firms for which records of criminal conviction or civil judgment exist that reflect on the business integrity of owners, officers, or managers as stipulated in § 278.1(b)(3)(i) shall be denied authorization permanently;

(ii) Firms which have been officially removed from other Federal, State or local government programs through administrative action shall be denied for a period equivalent to the period of removal from any such programs; or, if the firm is not removed from the program, but FNS determines a pattern (3 or more instances) exists evidencing a lack of business integrity on the part of the owners, officers or managers of the firm, such firm shall be denied for a one year period effective from the date of denial;

(iii) Firms for which evidence exists of an attempt to circumvent a period of disqualification, a civil money penalty, or fine imposed for violations of the Food Stamp Act of 1977, as amended, and program regulations shall be denied for a period of three years from the effective date of denial;

(iv) Firms for which evidence exists of prior Food Stamp Program violations by owners, officers, or managers of the firm for which a sanction had not been previously imposed and satisfied shall be denied for a period of time equivalent to the appropriate disqualification period for such previous violations, effective from the date of denial;

(v) Firms for which evidence exists of prior Food Stamp Program violations at other units of multi-unit firms as specified in § 278.1(b)(3)(v) for which a sanction had not been previously imposed and satisfied shall be denied for a period of time equivalent to the appropriate disqualification period for such previous violations, effective from the date of denial;

(vi) Firms for which any other evidence exists which reflects negatively on the business integrity or business honesty of the owners, officers or managers of the firm as specified in § 278.1(b)(3)(vi) shall be denied for a period of one year from the effective date of denial;

(4) The firm has filed an application that contains false or misleading information about a substantive matter, as specified in § 278.6(e). Such firms shall be denied authorization for the periods specified in § 278.6(e)(1) or § 278.6(e)(3);

(5) The firm's participation in the program will not further the purposes of the program;

(6) The firm has been found to be circumventing a period of disqualification or a civil money penalty through a purported transfer of ownership;

(7) The firm has failed to pay in full any fiscal claim assessed against the firm under § 278.7, any fines assessed under §§ 278.6(l) or 278.6(m), or a transfer of ownership civil money penalty assessed under § 278.6(f). * * *

(l) *Withdrawing authorization.* (1) * * *

(iii) The firm fails to meet the requirements for eligibility under Criterion A or B, as specified in the Food Stamp Act of 1977, as amended, or, for co-located wholesale/retail firms, the firm fails to meet the requirements of paragraph (b)(1)(iv) of this section, for the time period specified in paragraph (k)(2) of this section;

(iv) The firm fails to maintain the necessary business integrity to further the purposes of the program, as specified in paragraph (b)(3) of this section. Such firms shall be withdrawn for lack of business integrity for periods of time in accordance with those stipulated in paragraph (k)(3) of this section for specific business integrity findings;

* * * * *

(vi) The firm has failed to pay in full any fiscal claim assessed against the firm under § 278.7 or any fines assessed under §§ 278.6(l) or 278.6(m) or a transfer of ownership civil money penalty assessed under § 278.6(f); or

* * * * *

(m) *Refusal to accept correspondence or to respond to inquiries.* FNS may withdraw or deny the authorization of any firm which:

* * * * *

(o) *Applications containing false information.* The filing of any application containing false or misleading information may result in the denial of approval for participation in the program, as specified in paragraph (k) of this section, or disqualification of a firm from participation in the program, as specified in § 278.6, and may subject the firm and persons responsible to civil or criminal action.

* * * * *

4. In § 278.6:

a. Paragraph (a) is revised;

b. Paragraph (b)(1) is amended by adding one new sentence to the end of the paragraph;

c. Paragraph (b)(2)(i) is amended by adding three new sentences to the end of the paragraph;

d. Paragraph (c) is amended by adding four new sentences to the end of the paragraph;

e. Paragraph (e) is amended by adding new paragraphs (e)(1)(iii), (e)(3)(vi) and (e)(8);

f. Paragraph (i) is amended by removing the first sentence of Criterion 4 and adding three new sentences in its place, and by removing the words ''or management'' in paragraph (i)(1)(v); and

g. Paragraph (n) is revised.

The revisions and additions read as follows:

§ 278.6 Disqualification of retail food stores and wholesale food concerns, and imposition of civil money penalties in lieu of disqualifications.

(a) *Authority to disqualify or subject to a civil money penalty.* FNS may disqualify any authorized retail food store or authorized wholesale food concern from further participation in the program if the firm fails to comply with the Food Stamp Act of 1977, as amended, or this part. Such disqualification shall result from a

finding of a violation on the basis of evidence that may include facts established through on-site investigations, inconsistent redemption data, evidence obtained through a transaction report under an electronic benefit transfer system, or the disqualification of a firm from the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), as specified in paragraph (e)(8) of this section. Disqualification shall be for a period of 6 months to 5 years for the firm's first sanction; for period of 12 months to 10 years for a firm's second sanction; and disqualification shall be permanent for a disqualification based on paragraph (e)(1) of this section. Any firm which has been disqualified and which wishes to be reinstated at the end of the period of disqualification, or at any later time, shall file a new application under § 278.1 so that FNS may determine whether reauthorization is appropriate. The application may be filed no earlier than 10 days before the end of the period of disqualification. FNS may, in lieu of a disqualification, subject a firm to a civil money penalty of up to $10,000 for each violation if FNS determines that a disqualification would cause hardship to participating households. FNS may impose a civil money penalty of up to $20,000 for each violation in lieu of a permanent disqualification for trafficking, as defined in § 271.2 of this chapter, in accordance with the provisions of paragraphs (i) and (j) of this section.

(b) *Charge letter.* (1) * * * In the case of a firm for which action is taken in accordance with paragraph (e)(8) of this section, the charge letter shall inform such firm that the disqualification action is not subject to administrative or judicial review, as specified in paragraph (e)(8) of this section.

(2) *Charge letter for trafficking.* (i) * * * The charge letter shall also advise the firm that the permanent disqualification shall be effective immediately upon the date of receipt of the notice of determination, regardless of whether a request for review is filed in accordance with § 279.5 of this chapter. If the disqualification is reversed through administrative or judicial review, the Secretary shall not be liable for the value of any sales lost during the disqualification period. Firms that request and are determined eligible for a civil money penalty in lieu of permanent disqualification for trafficking may continue to participate in the program pending review and shall not be required to pay the civil money penalty pending appeal of the trafficking determination action.

* * * * *

(c) * * * In the case of a firm subject to permanent disqualification under paragraph (e)(1) of this section, the determination shall inform such a firm that action to permanently disqualify the firm shall be effective immediately upon the date of receipt of the notice of determination from FNS, regardless of whether a request for review is filed in accordance with § 279.5 of this chapter. If the disqualification is reversed through administrative or judicial review, the Secretary shall not be liable for the value of any sales lost during the disqualification period. Firms that request and are determined eligible to a civil money penalty in lieu of permanent disqualification for trafficking may continue to participate in the program pending review and shall not be required to pay the civil money penalty pending appeal of the trafficking determination action. In the case of a firm for which action is taken in accordance with paragraph (e)(8) of this section, the determination notice shall inform such firm that the disqualification action is not subject to administrative or judicial review, as specified in paragraph (e)(8) of this section.

* * * * *

(e) *Penalties.* * * *

(1) * * *

(iii) It is determined that personnel of the firm knowingly submitted information on the application that contains false information of a substantive nature that could affect the eligibility of the firm for authorization in the program, such as, but not limited to, information related to:

(A) Eligibility requirements under § 278.1(b), (c), (d), (e), (f), (g) and (h);

(B) Staple food stock;

(C) Annual gross sales for firms seeking to qualify for authorization under Criterion B as specified in the Food Stamp Act of 1977, as amended;

(D) Annual staple food sales;

(E) Total annual gross retail food sales for firms seeking authorization as co-located wholesale/retail firms;

(F) Ownership of the firm;

(G) Employer Identification Numbers and Social Security Numbers;

(H) Food Stamp Program history, business practices, business ethics, WIC disqualification or authorization status, when the store did (or will) open for business under the current ownership, business, health or other licenses, and whether or not the firm is a retail and wholesale firm operating at the same location; or

(I) Any other information of a substantive nature that could affect the eligibility of a firm.

* * * * *

(3) * * *

(vi) Personnel of the firm knowingly submitted information on the application that contained false information of a substantive nature related to the ability of FNS to monitor compliance of the firm with FSP requirements, such as, but not limited to, information related to:

(A) Annual eligible retail food sales;

(B) Store location and store address and mailing address;

(C) Financial institution information; or

(D) Store name, type of ownership, number of cash registers, and non-food inventory and services.

* * * * *

(8) FNS shall disqualify from the Food Stamp Program any firm which is disqualified from the WIC Program:

(i) Based in whole or in part on any act which constitutes a violation of that program's regulation and which is shown to constitute a misdemeanor or felony violation of law, or for any of the following specific program violations:

(A) A pattern of claiming reimbursement for the sale of an amount of a specific food item which exceeds the store's documented inventory of that food item for a specified period of time;

(B) Exchanging WIC food instruments for cash, credit or consideration other than eligible food; or the exchange of firearms, ammunition, explosives or controlled substances, as defined in section 802 of title 21 of the United States Code, for food instruments;

(C) A pattern of receiving, transacting and/or redeeming WIC food instruments outside of authorized channels;

(D) A pattern of exchanging non-food items for a WIC food instrument;

(E) A pattern of charging WIC customers more for food than non-WIC customers or charging WIC customers more than the current shelf price; or

(F) A pattern of charging for food items not received by the WIC customer or for foods provided in excess of those listed on the food instrument.

(ii) FNS shall not disqualify a firm from the Food Stamp Program on the basis of a WIC disqualification unless:

(A) Prior to the time prescribed for securing administrative review of the WIC disqualification action, the firm was provided individual and specific notice that it could be disqualified from the Food Stamp Program based on the WIC violations committed by the firm;

(B) A signed and dated copy of such notice is provided to FNS by the WIC administering agency; and

(C) A determination is made in accordance with paragraph (a) of this section that such action will not cause a hardship for participating Food Stamp households.

(iii) Such a Food Stamp disqualification:

(A) Shall be for the same length of time as the WIC disqualification;

(B) May begin at a later date than the WIC disqualification; and

(C) Shall not be subject to administrative or judicial review under the Food Stamp Program.

* * * * *

(i) *Criteria for eligibility for a civil money penalty in lieu of permanent disqualification for trafficking.* * * *

Criterion 4. Firm ownership was not aware of, did not approve, did not benefit from, or was not in any way involved in the conduct or approval of trafficking violations; or it is only the first occasion in which a member of firm management was aware of, approved, benefited from, or was involved in the conduct of any trafficking violations by the firm. Upon the second occasion of trafficking involvement by any member of firm management uncovered during a subsequent investigation, a firm shall not be eligible for a civil money penalty in lieu of permanent disqualification. Notwithstanding the above provision, if trafficking violations consisted of the sale of firearms, ammunition, explosives or controlled substances, as defined in 21 U.S.C. § 802, and such trafficking was conducted by the ownership or management of the firm, the firm shall not be eligible for a civil money penalty in lieu of permanent disqualification.* * *

* * * * *

(n) *Review of determination.* The determination of FNS shall be final and not subject to further administrative or judicial review unless a written request for review is filed within the period stated in § 279.5 of this chapter.

Notwithstanding the above, any FNS determination made on the basis of paragraph (e)(8) of this section shall not be subject to further administrative or judicial review.

* * * * *

5. In § 278.8, paragraph (a) is revised to read as follows:

§ 278.8 Administrative review—retail food stores and wholesale food concerns.

(a) *Requesting review.* A food retailer or wholesale food concern aggrieved by administrative action under §§ 278.1, 278.6 or 278.7 may, within the period stated in § 279.5 of this chapter, file a written request for review of the administrative action with the review officer. However, disqualification actions taken against firms in accordance with § 278.6(e)(8) shall not be subject to administrative or judicial review. On receipt of the request for review, the questioned administrative action shall be stayed pending disposition of the request for review by the review officer, except in the case of a permanent disqualification as specified in § 278.6(e)(1). A disqualification for failure to pay a civil money penalty shall not be subject to administrative review.

* * * * *

PART 279—ADMINISTRATIVE AND JUDICIAL REVIEW—FOOD RETAILERS AND FOOD WHOLESALERS

6. In § 279.3, paragraph (a)(2) is revised to read as follows:

§ 279.3 Authority and jurisdiction.

(a) *Jurisdiction.* * * *

(2) Imposition of a fine under §§ 278.6(l) or 278.6(m) of this chapter or disqualification from participation in the program or imposition of a civil money penalty under § 278.6 of this chapter, except for disqualification actions imposed under § 278.6(e)(8) of this chapter;

* * * * *

7. In § 279.7, paragraph (a) is amended to add two new sentences after the first sentence to read as follows:

§ 279.7 Action upon receipt of a request for review.

(a) *Holding action.* * * * However, in cases of permanent disqualification under § 278.6(e)(1) of this chapter, the administrative action shall not be held in abeyance pending such a review determination. If the disqualification is reversed through administrative or judicial review, the Secretary shall not be held liable for the value of any sales lost during the disqualification period. * * *

* * * * *

8. In § 279.10, the first sentence of paragraph (a) and paragraph (d) are revised to read as follows:

§ 279.10 Judicial review.

(a) *Filing for judicial review.* Except for firms disqualified from the program in accordance with § 278.6(e)(8) of this chapter, a firm aggrieved by the determination of the administrative review officer may obtain judicial review of the determination by filing a complaint against the United States in the U.S. district court for the district in which the owner resides or is engaged in business, or in any court of record of the State having competent jurisdiction. * * *

* * * * *

(d) Stay of action. During the pendency of any judicial review, or any appeal therefrom, the administrative action under review shall remain in force unless the firm makes a timely application to the court and after hearing thereon, the court stays the administrative action after a showing that irreparable injury will occur absent a stay and that the firm is likely to prevail on the merits of the case. However, permanent disqualification actions taken in accordance with § 278.6(e)(1) of this chapter shall not be subject to such a stay of administrative action. If the disqualification action is reversed through administrative or judicial review, the Secretary shall not be liable for the value of any sales lost during the disqualification period.

Dated: April 21, 1999.

Samuel Chambers, Jr.,

Administrator, Food and Nutrition Service.

[FR Doc. 99–10736 Filed 4–29–99; 8:45 am]

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 212

[INS 1979–99]

RIN 1115–AF43

Additional Authorization to Issue Certificates for Foreign Health Care Workers

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: The interim rule amends the regulations of the Immigration and Naturalization Service (Service) to grant, on a temporary basis, authorization to the Commission on Graduates of Foreign Nursing Schools (CGFNS) to issue certificates to foreign health care workers in the occupations of occupational therapy and physical therapy. This rule also grants the Foreign Credentialing Commission on Physical Therapy (FCCPT) the authority to issue certificates to foreign-trained physical therapists. The rule is written in response to formal requests by CGFNS and FCCPT to obtain permission to issue certificates to foreign-trained workers coming to the United States in the occupations of occupational therapy and physical therapy on a permanent basis. This rule ensures that foreign-trained occupational therapists and physical therapists have the same training, education, and licensure as similarly employed United States workers.

This interim rule applies only to aliens seeking admission as immigrants to perform services in these two health care occupations. Aliens seeking temporary admission to the United States as nonimmigrant aliens to perform services in these or other health care occupations are not covered by this interim rule. The Service and the Department of State temporarily have waived the certification requirement of section 343 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) for aliens coming to the United States as nonimmigrant health care workers. This policy will continue until a final rule is published which fully implements section 343.

DATES: *Effective date:* This interim rule is effective June 29, 1999.

Comment date: Written comments must be submitted on or before June 29, 1999.

ADDRESSES: Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street NW., Room 5307, Washington, DC 20536. To ensure proper handling, please reference the INS No. 1979–99 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: John W. Brown, Adjudications Officer, Benefits Division, Immigration and Naturalization Service, 425 I Street NW., Room 3214, Washington, DC 20536, telephone (202) 514–3228.

SUPPLEMENTARY INFORMATION:

What is Section 343 of IIRIRA?

On September 30, 1996, President Clinton signed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), Pub. L. 104–208. Section 343 of IIRIRA created new ground of inadmissibility at section 212(a)(5)(C) of the Immigration and Nationality Act (Act) for aliens coming to the United States to perform labor in certain health care occupations.

Pursuant to section 343, any alien coming to the United States for the purpose of performing labor as a health care worker, other than as a physician, is inadmissible unless the alien presents to the consular officer, or, in the case of adjustment of status, the Attorney General, a certificate from the CGFNS, or an equivalent independent credentialing organization approved by the Attorney General in consultation with the Secretary of Health and Human Services (HHS).

Under section 343, the certificate must verify that: (1) the alien's education, training, license, and experience meet all applicable statutory and regulatory requirements for admission into the United States under the classification specified in the application; are comparable with that required for an American health care worker; are authentic and, in the case of a license, is unencumbered; (2) the alien has the level of competence in oral and written English considered by the Secretary of HHS, in consultation with the Secretary of Education (DOE), to be appropriate for health care work of the kind in which the alien will be engaged, as shown by an appropriate score on one or more nationally recognized, commercially available, standardized assessments of the applicant's ability to speak and write English; and, finally, (3) if a majority of states licensing the profession in which the alien intends to work recognize a test predicting the alien's success on the profession's licensing or certification examination, the alien has passed such a test, or has passed such an examination.

On October 14, 1998, the Service published an interim rule in the **Federal Register** at 63 FR 55007 that implemented certain portions of section 343 of IIRIRA as it related to occupational therapists and nurses coming to the United States on a permanent basis. For purposes of this discussion, the interim rule published on October 14, 1998, is referenced as ''the first interim rule.''

What provisions were contained in the Service's interim rule published on October 14, 1998?

In the first interim rule, which became effective on December 14, 1998, the Service granted authorization to CGFNS and the National Board for Certification in Occupational Therapy (NBCOT) to issue certificates to foreign-trained health care workers in the fields of nursing and occupational therapy, respectively. the rule, however, limited the authority of CGFNS and the NBCOT to the issuance of certificates to aliens coming permanently to the United States. In addition, the authority granted to CGFNS and NBCOT to issue certificates was granted on a temporary basis until the Service published a final rule implementing all the provisions of section 343 of IIRIRA.

What criteria did the Service use in the first interim rule to grant authorization to CGFNS and NBCOT to issue certificates?

The first interim rule provided that an organization must meet two criteria in order to be granted authorization to issue certificates pursuant to section 343 of IIRIRA. First, the organization had to establish that there was a sustained level of demand for foreign-trained workers in the occupation and, second, the organization has to show that it had an established track record in providing credentialing services in the occupation.

For purposes of the first interim rule, the Service defined the term ''sustained level of demand'' as the presence of an existing demand for foreign health care workers in a particular occupation that is expected to continue in the foreseeable future.

The first interim rule defined the term ''organization with an established track record'' as an organization that has a record of issuing actual certificates, or documents similar to a certificate, that are generally accepted by the state regulatory bodies as certifying that an individual has met certain minimal qualifications.

The rule also provided that, during the period of time that the first interim rule was in effect, the Service would entertain any requests to issue certificates from an organization that could demonstrate that it met the two criteria.

What is the purpose of this interim rule?

The purpose of this interim rule is to provide notice that the Service has granted CGFNS the authority to issue certificates pursuant to section 343 of IIRIRA, on a temporary basis, to foreign-trained health care workers coming to the United States as immigrants or applicants for adjustment of status to work in the occupations of occupational therapist and physical therapist. This rule also provides notice that the Service has granted FCCPT the authority to issue certificates pursuant to section 343 of IIRIRA, on a temporary basis, to foreign-trained health care workers coming to the United States as immigrants, or applicants for adjustment of status to work in the occupation of physical therapist.

This rule does not give authorization to CGFNS or FCCPT to issue certificates to aliens seeking temporary admission to the United States as nonimmigrant aliens to perform services in these or other health care occupations. Aliens' applications for admission as nonimmigrants will be processed pursuant to the Service's temporary policies that were described in the preamble to the Service's first interim rule. The authorization provided for in this interim rule remains in effect until the publication of a final rule.

This interim rule also lists the passing scores for the English language tests for the occupation of physical therapist.

Have CGFNS and FCCPT met the criteria to obtain authorization described in the first interim rule?

Pursuant to the criteria described in the first interim rule, CGFNS and FCCPT have made formal applications to the Service seeking authorization to issue certificates to foreign health care workers. CGFNS has applied for authorization to issue certificates to foreign-trained health care workers in the occupations of occupational therapist and physical therapist. FCCPT has applied for authorization to issue certificates in the occupation of physical therapist. The applications were supported by evidence addressing the two criteria described in the first interim rule.

In order to secure more current and detailed information relating to issues in the field of health care, the Service sought the opinion of the Secretary of HHS as to whether CGFNS and FCCPT met the two criteria described in the first interim rule. Based on the Secretary's opinion and the evidence submitted, the Service finds CGFNS has met the two criteria discussed in the rule for the occupations of occupational therapist and physical therapist. Likewise, FCCPT has met the two criteria for the occupation of physical therapist.

Does CGFNS have a proven track record?

The Service finds that CGFNS has an established track record in issuing certificates because it has experience in administering the examination that predicted success of foreign-trained educated nurses under the previous H–1A visa category. In addition, CGFNS has experience beyond nursing with regard to educational comparability and credentials evaluation. CGFNS, through their credential evaluation service, has evaluated foreign credentials, including educational degrees and foreign licenses, for psychiatric technicians, physician assistants, emergency medical technicians, and other occupations.

The CGFNS has an extensive database covering health-related academic programs in foreign countries, much of which is applicable beyond nursing. Finally, with the establishment of ''Professional Standards Committees,'' CGFNS has developed certification standards that may be used to assess comparability for the occupation of physical therapy and occupational therapy.

Does FCCPT have a proven track record?

The FCCPT is the credentialing organization of the Federation of State Boards of Physical Therapy (the Federation). The membership of the Federation, established 1986, includes all of the state regulatory bodies responsible for the examination and licensure of physical therapist in all 50 states. The Federation develops and recommends educational, English language proficiency, and other standards adopted by state regulatory agencies.

The FCCPT currently performs credential evaluations for individuals entering on temporary visas that are accepted by 17 states. As part of the evaluation, the organization reviews English language proficiency, licensure status and proof that a current license is in good standing with the licensure authorities, and, finally, equivalency of education. Based on the credentials evaluation provided by FCCPT, these states will issue temporary licenses pending the taking of the National Physical Therapy Examination.

Further, the Federation developed the Course Work Evaluation Tool to establish educational standards for credentialing foreign-educated physical therapists that are currently used by 19 states. The Federation worked with the NBCOT to jointly develop common English language proficiency standards, including the identification of necessary examinations and passing scores for English language proficiency examinations administered by the Educational Testing Service. HHS adopted these standards in its recommendation to the Attorney General regarding appropriate English language proficiency tests scores for physical therapists and occupational therapists as set forth in the first interim rule.

Is There a Sustained Level of Demand for Physical Therapists?

According to data compiled by the Department of Labor, the number of job openings for physical therapists continues to remain high. The second highest number of job openings certified under the H–1B program is for the occupation of therapist. Physical therapists, in turn, comprise the largest component of this occupation. Based on these findings, the Service has determined that the second criteria relating to the demand of foreign-trained workers for the occupation of physical therapists has been met.

The Service previously determined in the first interim rule that there was a sustained level of demand in the field of occupational therapy for foreign-trained health care workers.

Based on the foregoing, it is the decision of the Service that CGFNS should be granted authorization to issue certificates to foreign health care workers in the fields of occupational therapist and physical therapist subject to the terms and conditions of the first interim rule. Further, the FCCPT, as the credentialing unit associated with the Federation, is granted the authority to issue certificates to foreign health care workers in the field of physical therapist.

What are the Passing English Test Scores for Physical Therapists?

The HHS has determined that physical therapists must obtain the following scores on the English tests administered by the Educational Testing Service (ETS): Test of English as a Foreign Language (TOEFL): paper-based 560, computer-based 220; Test of Written English (TWE): 4.5; Test of Spoken English (TSE): 50.

HHS has advised that the Michigan English Language Assessment Battery (MELAB) is not an appropriate test for physical therapists or occupational therapists. HHS has advised that MELAB scores are not acceptable to the licensing and accrediting organizations involved with these two occupations. In addition, the exemptions for the English language tests described in § 212.15(g)(2) apply to the occupation of physical therapy.

Does this Interim Rule Alter any of the Service's Policies With Respect to the Admission of Nonimmigrant Health Care Workers?

No. This rule merely grants authorization to CGFNS and the FCCPT to issue certificates to foreign-trained health care workers seeking admission as immigrants or adjustment of status in two additional occupations. It does not alter any of the Service's policies with respect to the admission of nonimmigrant aliens coming to perform services in health care occupations that were described in the first interim rule.

How ddoes This Rule Amend the Existing Regulation?

This interim rule amends the regulation at § 212.15(c) by adding the occupation of physical therapist to the list of occupations.

This interim rule also amends the regulation at § 212.15(e) to add the occupations of physical therapist and occupational therapist to the list of occupations for which CGFNS can issue certificates. This rule also adds FCCPT

as an organization authorized to issue certificates in the occupation of physical therapist.

Finally, this regulation amends the regulation at § 212.15(g) to list the passing English scores for the occupation of physical therapist.

Good Cause Exception

This interim rule is effective 60 days from the date of publication in the **Federal Register**. The Service invites post-promulgation comments and will address any such comments in a proposed rule or the resulting final rule. For the following reasons, the Service finds that good cause exists for adopting this rule without the prior notice and comment period ordinarily required by 5 U.S.C. 553. Although section 343 went into effect on September 30, 1996, due to the complexities of the requirements of section 343, and the need to coordinate the interests and concerns of a great number of Federal agencies, the health care sector, and members of the affected public, the Service is still in the process of developing a more comprehensive proposed rule to implement section 343 in order to solicit comment from the public. A continued delay in the implementation of this provision in the particular manner set out in this interim rule, however, could have a negative effect on the availability of health care in this country, particularly in medically under-served areas for nursing and occupational therapy, and will create a further backlog with respect to pending applications filed by aliens seeking to immigrate to perform labor in a health care occupation.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with 5 U.S.C. 605(b), has reviewed this regulation and, by approving it, certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule has been drafted in a way to minimize the economic impact that it has on small business while meeting its intended objective. The health care workers who will be issued certificates are not considered small entities as the term is defined in 5 U.S.C. 601(6).

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1 year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is considered by the Department of Justice, Immigration and Naturalization Service, to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this regulation has been submitted to the Office of Management and Budget (OMB) for review.

Executive Order 12612

The regulation 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 rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988 Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988.

List of Subjects 8 CFR Part 212

Administrative practice and procedures, Aliens, Immigration, Passports and visas, Reporting and recordkeeping requirements.

Accordingly, part 212 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. The authority citation for part 212 continues to read as follows:

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1187, 1225, 1226, 1227, 1228, 1252; 8 CFR part 2.

2. Section 212.15 is amended by:

a. Revising paragraph (c) introductory text;

b. Adding a new paragraph (c)(3);

c. Revising paragraph (e); and by

d. Revising paragraph (g)(4)(i), to read as follows:

§ 212.15 Certificates for foreign health care workers.

* * * * *

(c) *Occupations affected by this provision.* With the exception of the aliens described in paragraph (b) of this section, any alien seeking admission to the United States as an immigrant or any alien applying for adjustment of status to a permanent resident to perform labor in one of the following health care occupations, regardless of where he or she received his or her education or training, is subject to this provision:

* * * * *

(3) Physical Therapists.

* * * * *

(e) *Organizations approved by the Service to issue certificates for health care workers.*

(1) The Commission on Graduates of Foreign Nursing Schools is authorized to issue certificates under section 343 for the occupations of nurse, physical therapist, and occupational therapist.

(2) The National Board for Certification in Occupational Therapy is authorized by the Service to issue certificates under section 343 for the occupation of occupational therapist.

(3) The Foreign Credentialing Commission on Physical Therapy is authorized by the Service to issue certificates under section 343 for the occupation of physical therapist.

* * * * *

(g) * * *

(4) *Passing scores for various occupations.* (i) *Occupational and physical therapists.* An alien seeking to perform labor in the United States as an occupational therapist or physical therapist must obtain the following scores on the English tests administered by ETS: Test Of English as a Foreign Language (TOEFL), Paper-Based 560, Computer-Based 220; Test of Written English (TWE): 4.5; Test of Spoken English (TSE): 50. Certifying organizations shall not accept the results of the MELAB for the occupation of occupational therapist or physical therapist. Aliens seeking to obtain a certificate to work as an occupational or physical therapist must take the test

offered by the ETS. The MELAB scores are not acceptable for these occupations.

* * * * *

Dated: April 27, 1999.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 99–10819 Filed 4–27–99; 4:39 pm]

BILLING CODE 4410–10–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 93 and 98

[Docket No. 98–102–1]

Limited Ports; Memphis, TN

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Direct final rule.

SUMMARY: We are amending the animal importation regulations by adding Memphis, TN, to the list of limited ports of entry for semen, embryos, and products of horses, ruminants, and swine. We have determined that this port has inspection facilities for this purpose and that Animal and Plant Health Inspection Service personnel are available to provide service at this location. This action will provide importers with an alternative port of entry for semen, embryos, and products of horses, ruminants, and swine.

DATES: This rule will be effective on June 29, 1999 unless we receive written adverse comments or written notice of intent to submit adverse comments on or before June 1, 1999.

ADDRESSES: Please send your comment and three copies to: [Docket No. 98–102–1], Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 98–102–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS rules, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Dr. Morley H. Cook, Senior Staff Veterinarian, Animals Program, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–8686; or e-mail: morley.h.cook@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 93 (referred to below as the regulations) restrict the importation of specified animals and animal products into the United States to prevent the introduction of communicable animal diseases. Subpart C—Horses, §§ 93.300 through 93.326 of the regulations, covers the importation of horses. Section 93.303 designates ports approved for the importation of horses. Section 93.303, paragraph (d), lists limited ports that have inspection facilities for the importation of horses and horse products, such as horse test specimens, that do not appear to require restraint and holding facilities for inspection at the port of entry.

Subpart D—Ruminants, 93.400 through 93.435 of the regulations, covers the importation of ruminants. Section 93.403 designates ports approved for the importation of ruminants. Section 93.403, paragraph (e), lists limited ports that have inspection facilities for the entry of ruminants and ruminant products, such as ruminant test specimens, that do not appear to require restraint and holding inspection facilities for inspection at the port of entry.

Subpart E—Swine, 93.500 through 93.523 of the regulations, covers the importation of swine. Section 93.503 designates ports approved for the importation of swine. Section 93.503, paragraph (e), lists limited ports that have inspection facilities for the entry of swine and swine products, such as swine test specimens, that do not appear to require restraint and holding inspection facilities for inspection at the port of entry.

The regulations in 9 CFR part 98 restrict the importation of certain animal embryos and animal semen. Subpart C—Certain Animal Semen, 98.30 through 98.37 of the regulations, covers the importation of certain animal semen. Section 98.33 designates ports for the importation of certain animal semen. Section 98.33, paragraph (d), lists limited ports that have inspection facilities for the entry of animal semen.

This rule will amend 93.303(d), 93.403(e), 93.503(e), and 98.33(d), in accordance with the procedures explained below under ''Dates,'' by adding Memphis, TN, to the list of limited ports set forth in each of those paragraphs. However, the Memphis, TN, entry in each of the amended paragraphs in part 93 will specify that the port is not designated a limited port for the entry of live animals (98.33 deals only with animal semen). This is because, although the port has inspection facilities and Animal and Plant Health Inspection Service (APHIS) personnel to provide service for the entry of semen, embryos, and products, it does not have adequate facilities for the entry of any live animals covered by the regulations. Other ports already designated in part 93 as limited ports are able to handle some live animals, but not those animals requiring restraint and holding facilities.

Dates

We are publishing this rule without a prior proposal because we view this action as noncontroversial and anticipate no adverse public comment. This rule will be effective, as published in this document, 60 days after the date of publication in the **Federal Register** unless we receive written adverse comments or written notice of intent to submit adverse comments within 30 days of the date of publication of this rule in the **Federal Register**.

Adverse comments are comments that suggest the rule should not be adopted or that suggest the rule should be changed.

If we receive written adverse comments or written notice of intent to submit adverse comments, we will publish a document in the **Federal Register** withdrawing this rule before the effective date. We will then publish a proposed rule for public comment. Following the close of that comment period, the comments will be considered, and a final rule addressing the comments will be published.

As discussed above, if we receive no written adverse comments nor written notice of intent to submit adverse comments within 30 days of publication of this direct final rule, this direct final rule will become effective 60 days following its publication. We will publish a document to this effect in the **Federal Register**, before the effective date of this direct final rule, confirming that it is effective on the date indicated in this document.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This rule adds Memphis, TN, to the list of limited ports of entry for semen, embryos, and products of horses, ruminants, and swine. We have determined that Memphis, TN, meets the requirements for being designated as a limited port of entry that has inspection facilities for semen, embryos, and products of horses, ruminants, and swine. However it does not have the facilities necessary to be designated as a port of entry for live animals.

Adding and removing limited ports, according to need, is a continuing program in APHIS. In this case, the designation of Memphis, TN, as a new limited port of entry will facilitate small U.S. importers of semen, embryos, and products of horses, ruminants, and swine in the surrounding area by making it logistically easier for them. Until now, the closest limited ports of entry to Tennessee and the surrounding States were in Chicago, IL, and Toledo, OH, to the north; Atlanta, GA, New Orleans, LA, and Tampa, FL, to the south; and nothing in between.

Memphis, TN, serves as the first point of entry for Federal Express, which is a major international carrier of air freight. By designating Memphis, TN, as a new limited port, U.S. importers of semen, embryos, and products of horses, ruminants, and swine in a broader area of the United States will be connected by air.

This rule will produce no significant budgetary effect on the Federal Government, since APHIS will assign personnel to the port of Memphis, TN, on an ''as needed'' basis only.

The Regulatory Flexibility Act requires that agencies consider the economic effect of rules on small businesses, organizations, and governmental jurisdictions. Businesses and organizations affected by this addition of a limited port of entry will be livestock producers in the area of Tennessee and the surrounding States. It is not known how many of those entities are small under the U.S. Small Business Administration's standards; however the effects will only be positive due to the closer distance, faster service, and the direct connection with an international air freight carrier.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

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

Paperwork Reduction Act

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

List of Subjects

9 CFR Part 93

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

9 CFR Part 98

Animal diseases, Imports.

Accordingly, we are amending 9 CFR parts 93 and 98 as follows:

PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

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

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(d).

§ 93.303 [Amended]

2. In § 93.303, paragraph (d) is amended by adding ''Memphis, Tennessee (no live animals);'' immediately after ''Puerto Rico;''.

§ 93.403 [Amended]

3. In § 93.403, paragraph (e) is amended by adding ''Memphis, Tennessee (no live animals);'' immediately after ''Puerto Rico;''.

§ 93.503 [Amended]

4. In § 93.503, paragraph (e) is amended by adding ''Memphis, Tennessee (no live animals);'' immediately after ''Puerto Rico;''.

PART 98—IMPORTATION OF CERTAIN ANIMAL EMBRYOS AND ANIMAL SEMEN

5. The authority citation for part 98 continues to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 103–105, 111, 134a, 134b, 134c, 134d, 134f, 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(d).

§ 98.33 [Amended]

6. In § 98.33, paragraph (d) is amended by adding ''Memphis, Tennessee;'' immediately after ''Puerto Rico;''.

Done in Washington, DC, this 26th day of April 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–10872 Filed 4–29–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–100–AD; Amendment 39–11154; AD 99–09–51]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting airworthiness directive (AD) 99–09–51 that was sent previously to all known U.S. owners and operators of certain McDonnell Douglas Model MD–11 series airplanes by individual notices. This AD requires visual inspections under the floorboards in the lower center cargo compartment at frame 1681 to verify that a certain bracket and a certain open face nylon clamp are installed to a specific support wire bundle and to detect damage of the subject wire bundle; repair of damaged wiring; and installation of certain silicone rubber coated with a glass cloth protective wrap around the wire bundle, if necessary. This action is prompted by an incident in which the insulation

blanket between frames 1661 and 1681 in the lower center cargo compartment was found to be burnt due to a missing wiring harness support bracket/clamp on the wire bundle at frame 1681. The actions specified by this AD are intended to ensure that such a wire harness support bracket/clamp is installed; a missing bracket/clamp could cause the wire bundle to chafe against the frame, which could result in sparks, smoke, and possible fire in the lower center cargo compartment.

DATES: Effective May 5, 1999, to all persons except those persons to whom it was made immediately effective by emergency AD 99–09–51, issued on April 16, 1999, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before June 29, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–100–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Information pertaining to this amendment 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.

FOR FURTHER INFORMATION CONTACT: Brett Portwood, Aerospace Engineer, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: On April 16, 1999, the FAA issued emergency AD 99–09–51, which is applicable to certain McDonnell Douglas Model MD–11 series airplanes.

As part of its practice of re-examining all aspects of the service experience of a particular aircraft whenever an accident occurs, the FAA has become aware of an incident in which the insulation blanket between frames 1661 and 1681 in the lower center cargo compartment was found to be burnt. This incident occurred on a McDonnell Douglas Model MD–11 series airplane.

Investigation revealed that a wiring harness (including wires with a 115 volt alternating current) of the aft cargo loader control unit was contacting the insulation blanket and rubbing against frame 1681 above stringer R46. A wire was cut, and three other wires were missing insulation. In addition, frame 1681 had signs of arcing damage. Furthermore, the exposed moisture barrier material of the insulation blanket was burnt, and a hole was detected on the insulation blanket where the wiring harness was chafing against frame 1681. Further investigation revealed that a wiring harness support bracket/clamp on the wire bundle at frame 1681 may not have been installed during production of the airplane.

This incident is not considered to be related to an accident that occurred off the coast of Nova Scotia involving a McDonnell Douglas Model MD–11 series airplane. The cause of that accident is still under investigation.

A missing wiring harness support bracket/clamp on the wire bundle at frame 1681 could cause the wire bundle to chafe against the frame, which could result in sparks, smoke, and possible fire in the lower center cargo compartment.

Other Related Rulemaking

On April 9, 1999, the FAA issued a similar action (AD 99–08–51), which applies only to airplanes that are equipped with a 72-inch cargo door and use the light-weight cargo handling system. However, since the issuance of AD 99–08–51, the FAA has determined that the wire routing on airplanes that are equipped with a 72-inch cargo door and use any cargo handling system must also be inspected. Therefore, the FAA has determined that these additional airplanes also are subject to the unsafe condition identified in AD 99–08–51, and that the actions required by that AD must be accomplished on those airplanes to ensure an adequate level of safety of the affected fleet. Those airplanes are listed in the applicability of this new AD.

The FAA, in conjunction with Boeing and operators of Model MD–11 series airplanes, is continuing to review all aspects of the service history of those airplanes to identify potential unsafe conditions and to take appropriate corrective actions. This airworthiness directive is one of a series of actions identified during that process. The process is continuing and the FAA may consider additional rulemaking actions as further results of the review become available.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design, this airworthiness directive is issued to require a visual inspection to verify that, under the floorboards in the lower center cargo compartment at frame 1681, a certain bracket and a certain open face nylon clamp are installed to a specific support wire bundle. This AD also requires a visual inspection to detect damage of the subject wire bundle; repair of damaged wiring; and installation of certain silicone rubber coated with a glass cloth protective wrap around the subject wire bundle, if necessary. In addition, this AD requires that operators submit a report of the inspection results to the FAA. The repairs are required to be accomplished in accordance with the procedures specified in Chapter 20–30–01 of the McDonnell Douglas MD–11 Airplane Maintenance Manual, and Chapter 20–10–01 of the McDonnell Douglas MD–11 Wiring Diagram Manual.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual notices issued on April 16, 1999, to all known U.S. owners and operators of certain McDonnell Douglas Model MD–11 series airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments

submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–100–AD.'' The postcard will be date stamped and returned to the commenter.

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.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, 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, 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:

99–09–51 McDonnell Douglas: Amendment 39–11154. Docket 99–NM–100–AD.

Applicability: Model MD–11 series airplanes, certificated in any category; having the following fuselage/factory serial numbers:

Fuselage No.	Serial No.
447	48401
448	48402
449	48458
453	48411
454	48412
455	48449
456	48407
457	48408
461	48495
466	48416
467	48417
470	48459
475	48461
476	48434
478	48435
479	48450
484	48484
486	48499
488	48413
491	48414
492	48489
493	48500
495	48410
496	48496
497	48460
501	48418
502	48485
505	48451
506	48437
509	48486
512	48497
515	48514
516	48523
517	48547
518	48468
519	48469
520	48502
521	48548
523	48404
524	48405
525	48518
528	48503
529	48512
533	48538
539	48519
541	48520
450	48419
451	48420
452	48421
462	48505
469	48487
480	48472
481	48473
482	48481
483	48436
485	48474
489	48475
499	48490
503	48491
504	58527
507	48528
510	48476
511	48477
513	48501
514	48478
522	48498
526	48550
527	48551
530	48552
531	48553
535	48554
536	48479
537	48596
538	48480
540	48597
550	48598

Note 1: This AD only affects Model MD–11 series airplanes equipped with a 72-inch cargo door. Model MD–11 series airplanes equipped with a 104-inch cargo door are not subject to the unsafe condition addressed by this AD due to the configuration of the wire bundles.

Note 2: 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 (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure that a wire harness support bracket/clamp is installed on the wire bundle at frame 1681, accomplish the following:

(a) Within 5 days after the effective date of this AD: Perform a one-time visual inspection under the floorboards in the lower center cargo compartment at frame 1681 (approximately one inch outboard of longeron R46) to verify that a bracket having part number P/N 9D0062–3–16–24 (or equivalent), and an open face nylon clamp having P/N NMC1001–1 or 383–1 (see Figure 1, Item 14/267), are installed to support wire bundle No. AGS9110. (The nylon clamp specified in this paragraph may be a larger size, depending on the size of the wire bundle.)

(1) If the bracket and clamp are installed: Prior to further flight, perform a visual inspection to detect damage of the subject wire bundle. If any damage is detected, prior to further flight, accomplish paragraphs (a)(1)(i) and (a)(1)(ii) of this AD.

(i) Repair in accordance with Chapter 20–30–01 of the McDonnell Douglas MD–11 Airplane Maintenance Manual. And

(ii) Install a silicone rubber coated with a glass cloth protective wrap [Douglas Material Specification (DMS) 2109 or equivalent] around the wire bundle(s) in the area over frame 1681 above stringer R46 in accordance with Chapter 20–10–01 of the McDonnell Douglas MD–11 Wiring Diagram Manual.

(2) If the bracket or clamp is not installed: Prior to further flight, perform a visual inspection to detect damage (i.e., chafing, damage, or missing wire insulation) of the subject wire bundle(s).

(i) If no damage is detected: Prior to further flight, install a silicone rubber coated with a glass cloth protective wrap (DMS 2109 or equivalent) around the wire bundle(s) in the area over frame 1681 above stringer R46 in accordance with Chapter 20–10–01 of the McDonnell Douglas MD–11 Wiring Diagram Manual.

(ii) If any damage is detected: Prior to further flight, accomplish the actions required by paragraphs (a)(1)(i) and (a)(1)(ii) of this AD.

(b) Within 10 days after accomplishing the inspection required by paragraphs (a) and (a)(1) of this AD, submit a report of the inspection results (both positive and negative findings) to the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California 90712–4137; fax (562) 627–5210. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

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

(e) This amendment becomes effective on May 5, 1999, to all persons except those persons to whom it was made immediately effective by emergency AD 99–09–51, issued on April 16, 1999, which contained the requirements of this amendment.

BILLING CODE 4910–13–P

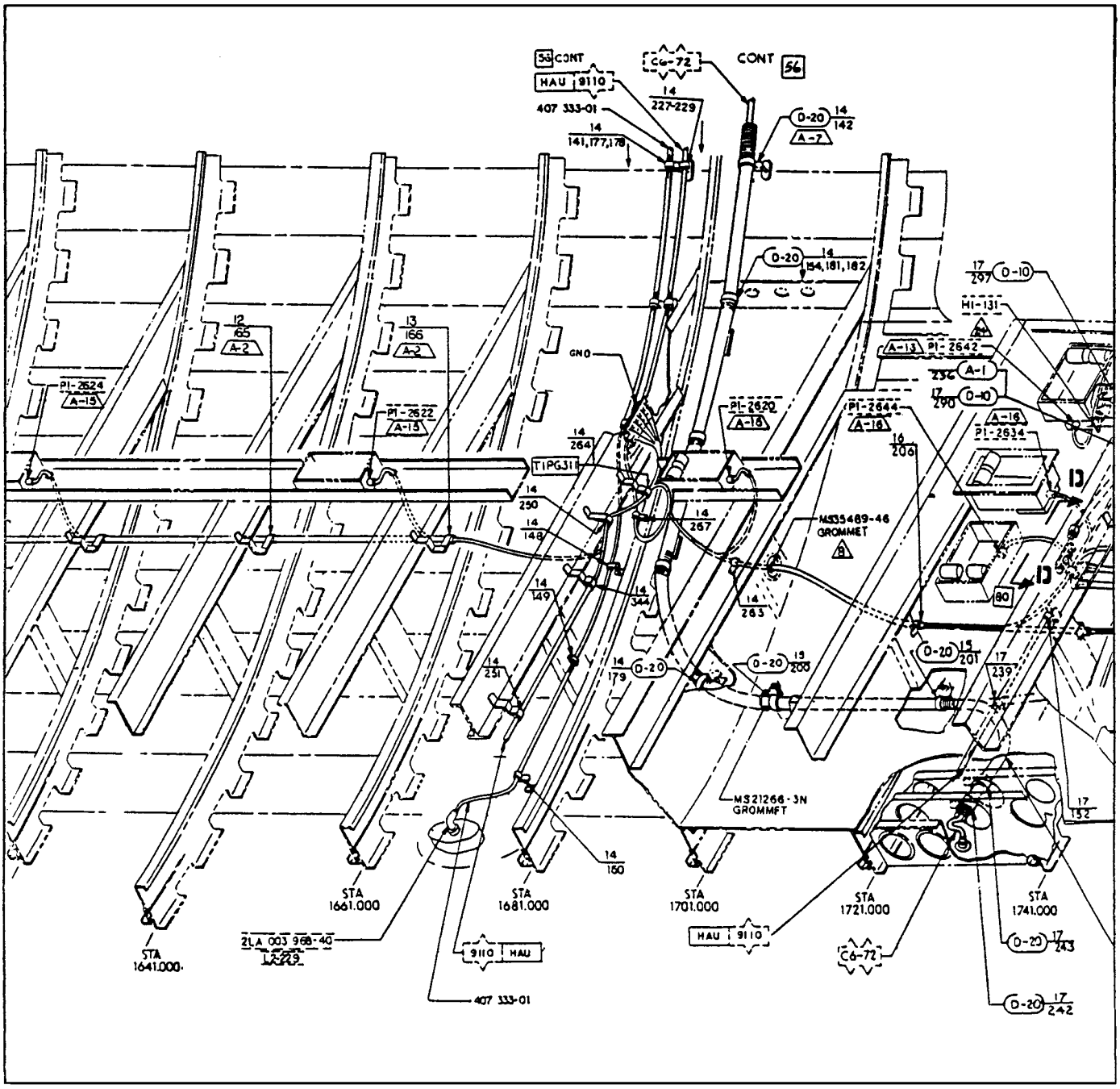

Figure 1

Issued in Renton, Washington, on April 23, 1999.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–10815 Filed 4–29–99; 8:45 am]

BILLING CODE 4910–13–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AWA–4]

RIN 2120–AA66

Establishment of Class C Airspace and Revocation of Class D Airspace, Austin-Bergstrom International Airport, TX; and Revocation of Robert Mueller Municipal Airport Class C Airspace; TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; delay of effective date.

SUMMARY: On February 11, 1999, the FAA published a final rule establishing a Class C airspace area and revoking the Class D airspace area for the Austin-Bergstrom International Airport, TX. The rule also revoked the Class C airspace area for the Robert Mueller Municipal Airport, TX. In view of the delay in the opening date of the new Austin-Bergstrom International Airport, TX, this action delays the rule's effective date until May 23, 1999.

EFFECTIVE DATE: Effective April 30, 1999, the effective date of the Final Rule at 64 FR 6793 is delayed until 0601 UTC, May 23, 1999.

FOR FURTHER INFORMATION CONTACT: Sheri Edgett Baron, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, FAA, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION: On February 11, 1999, the FAA published a final rule establishing a Class C airspace area and revoking the Class D airspace area for Austin-Bergstrom International Airport, TX (64 FR 6793). The rule also revoked the Class C airspace area for Robert Mueller Municipal Airport, TX. Due to construction delays, the official opening of the Austin-Bergstrom International Airport has been delayed until May 23, 1999. Accordingly, the effective date of the establishment and revocation of the related Class C and Class D airspace areas is postponed until the opening of the new airport.

Because the public needs to be made aware of this postponement immediately, notice and public procedure are impracticable and good cause exists for making the postponement effective in less than 30 days.

In consideration of the foregoing, effective April 30, 1999, the effective date of the final rule establishing the Class C airspace area and revoking the Class D airspace area for Austin-Bergstrom International Airport; and revoking the Class C airspace area for Robert Mueller Municipal Airport (64 FR 6793; February 11, 1999) is delayed from May 2, 1999, to May 23, 1999.

Issued in Washington, DC, on April 20, 1999.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 99–10964 Filed 4–29–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegation of Authority and Organization; Center for Veterinary Medicine; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulation to reflect a redelegation of authority with respect to approval of supplemental new animal drug applications to the Director, Division of Manufacturing Technology, Office of New Animal Drug Evaluation, Center for Veterinary Medicine (CVM). This action is necessary to ensure the continued accuracy of the regulation.

EFFECTIVE DATE: December 22, 1998.

FOR FURTHER INFORMATION CONTACT:

Carol Haley, Center for Veterinary Medicine (HFV–6), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1682;

Donna G. Page, Division of Management Systems and Policy (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4816.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 22, 1998 (63 FR 70650), FDA amended the regulation for redelegations of authority to incorporate provisions for feed mill licensing and to update positions and component titles associated with the authorities under § 5.83 (21 CFR 5.83). The regulation in § 5.83(c)(1) reflected a redelegation with respect to approval of certain supplemental new animal drug applications to the position title ''Director, Division of Human Food Safety, Office of New Animal Drug Evaluation, CVM.'' The correct position title to which these functions should have been redelegated is the ''Director, Division of Manufacturing Technologies, Office of New Animal Drug Evaluation, CVM,'' because that office is responsible for supplemental applications for manufacturing. Therefore, the redelegation to the ''Director, Division of Human Safety Office of New Animal Drug Evaluation, CVM'' has been amended and a new redelegation made to the ''Director, Division of Manufacturing Technologies, Office of New Animal Drug Evaluation, CVM.'' The regulation in § 5.83(c)(1) has been revised to reflect this redelegation. Further redelegation of authorities is not authorized at this time. Authority delegated to a position may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

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

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

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

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

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 138a, 2271; 15 U.S.C. 638, 1261–1282, 3701–3711a; 15 U.S.C. 1451–1461; 21 U.S.C. 41–50, 61–63, 141–149, 321–394, 467f, 679(b), 801–886, 1031–1309; 35 U.S.C. 156; 42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 264, 265, 300u–300u–5, 300aa–1; 1395y, 3246b, 4332, 4831(a), 10007–10008; E.O. 11921, 41 FR 24294, 3 CFR 1977 Comp., p. 124–131; E.O. 12591, 52 FR 13414, 3 CFR, 1988 Comp., p. 220–223.

2. Section 5.83 is amended by revising paragraph (c)(1) to read as follows:

§ 5.83 Approval of new animal drug applications, medicated feed mill license applications, and their supplements.

* * * * *

(c) * * *

(1) The Director, Division of Manufacturing Technologies, Office of New Animal Drug Evaluation, CVM.

* * * * *

Dated: April 23, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–10847 Filed 4–29–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 74

[Docket No. 98C–0041]

Listing of Color Additives for Coloring Sutures; [Phthalocyaninato(2-)] Copper

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the color additive regulations to provide for the safe use of [phthalocyaninato(2-)] copper in coloring nonabsorbable sutures for general and ophthalmic surgery made from a blend of poly(vinylidene fluoride) and poly(vinylidene fluoride-co-hexafluoropropylene). This action responds to a petition filed by Ethicon, Inc.

DATES: This regulation is effective June 2, 1999; except as to any provisions that may be stayed by the filing of proper objections; written objections and requests for a hearing by June 1, 1999.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Ellen M. Waldron, Center for Food Safety and Applied Nutrition (HFS–215), 200 C St. SW., Washington, DC 20204, 202–418–3089.

SUPPLEMENTARY INFORMATION:

I. Introduction

In a notice published in the **Federal Register** of February 2, 1998 (63 FR 5387), FDA announced that a color additive petition (CAP 8C0253) had been filed by Ethicon, Inc., P.O. Box 151, Somerville, NJ 08876–0151. The petition proposed to amend the color additive regulations in § 74.3045 *[Phthalocyaninato(2-)] copper* (21 CFR 74.3045) to provide for the safe use of [phthalocyaninato(2-)] copper in coloring nonabsorbable sutures for general and ophthalmic surgery made from a blend of poly(vinylidene fluoride) and poly(vinylidene fluoride-co-hexafluoropropylene). The petition was filed under section 721(d)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 379e(d)(1)).

II. Applicability of the Act

With the passage of the Medical Device Amendments of 1976 (Pub. L. 94–295), Congress mandated the listing of color additives for use in medical devices when the color additive in the device comes into direct contact with the body for a significant period of time (section 721(d)(1) of the act). [Phthalocyaninato(2-)] copper is added to nonabsorbable sutures made from a blend of poly(vinylidene fluoride) and poly(vinylidene fluoride-co-hexafluoropropylene) in such a way that at least some of the color additive will come into contact with the body when the sutures are in place. In addition, the sutures are intended to remain in the body at least until healing is complete. Thus, the color additive will be in direct contact with the body for a significant period of time. Consequently, the petitioned use of the color additive is subject to the statutory listing requirement.

III. Safety of the Petitioned Use of the Additive

Based on data submitted in the petition and from other relevant information, FDA concludes that the petitioned use of the additive, [phthalocyaninato(2-)] copper, will result in exposure to no greater than 7.5 milligrams (mg) per person over a 70-year lifetime or 0.31 microgram per person per day (Ref. 1).

To establish that the color additive [phthalocyaninato(2)-] copper is safe for use in coloring sutures made from a blend of poly(vinylidene fluoride) and poly(vinylidene fluoride-co-hexafluoropropylene), the petitioner conducted eight biocompatibility tests on the colored sutures or their extracts to evaluate the toxicity of the subject color additive. Based on an evaluation of these tests, the agency concludes that the colored sutures or their extracts are noncytotoxic, nonpyrogenic, and nonirritating.

Based on the available toxicity data, the small amount of [phthalocyaninato(2)-] copper used to the color sutures, and the agency's exposure calculation for the proposed use of the subject additive, FDA finds that [phthalocyaninato(2)-] copper is safe for use in coloring sutures made from a blend of poly(vinylidene fluoride) and poly(vinylidene fluoride-co-hexafluoropropylene).

IV. Specifications and Certification

[Phthalocyaninato(2-)] copper is currently produced as a certified color additive for use in coloring contact lenses and certain sutures for general and ophthalmic surgery in accordance with 21 CFR part 80. The agency concludes that the specifications listed in § 74.3045 for these uses are adequate to ensure the safe use of this color additive in sutures for general and ophthalmic surgery that are made from a blend of poly(vinylidene fluoride) and poly(vinylidene fluoride-co-hexafluoropropylene).

V. Conclusions on Safety

FDA has evaluated the data and information in the petition and other relevant material. Based on this information the agency concludes that: (1) The proposed use of [phthalocyaninato(2-)] copper, at a level not to exceed 0.5 percent by weight of the suture material, for coloring sutures made from a blend of poly(vinylidene fluoride) and poly(vinylidene fluoride-co-hexafluoropropylene) is safe; and (2) the color additive will achieve its intended coloring effect, and thus, is suitable for this use. Further, the agency concluded that the color additive regulations in § 74.3045 should be amended as set forth below.

VI. Inspection of Documents

In accordance with § 71.15 (21 CFR 71.15), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in § 71.15, the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

VII. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

VIII. Paperwork Reduction Act of 1995

This final rule contains no collections of information. Therefore, clearance by

the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

IX. Objections

Any person who will be adversely affected by this regulation may at any time on or before June 1, 1999, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. FDA will publish notice of the objections that the agency has received or lack thereof in the **Federal Register**.

X. Reference

The following reference has been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Memorandum from the Division of Product Manufacture and Use, Chemistry Review Team, FDA, to the Division of Petition Control, FDA, concerning ''CAP 8C0253 (MATS M2.0 & 2.1): Ethicon, Inc. (Submission of November 26, 1997). Petition for the safe use of use of [sic] phthalocyaninato(2-) copper as a colorant for nonabsorbable sutures,'' dated January 26, 1998.

List of Subjects in 21 CFR Part 74

Color additives, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 74 is amended as follows:

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR part 74 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e.

2. Section 74.3045 is amended by revising the introductory text of paragraph (c)(1) to read as follows:

§ 74.3045 [Phthalocyaninato(2-)] copper.

* * * * *

(c) *Uses and restrictions.* (1) The color additive [phthalocyaninato(2-)] copper may be safely used to color polypropylene sutures, polybutester (the generic designation for the suture fabricated from 1,4-benzenedicarboxylic acid, polymer with 1,4-butanediol and *alpha*-hydro-*omega*- hydroxypoly(oxy-1,4-butanediyl), CAS Reg. No. 37282–12–5) nonabsorbable sutures for use in general and ophthalmic surgery, polybutylene terephthalate nonabsorbable monofilament sutures for general and ophthalmic surgery, nonabsorbable sutures made from poly(vinylidene fluoride) and poly(vinylidene fluoride-co-hexafluoropropylene) for general and ophthalmic surgery, and polymethylmethacrylate monofilament used as supporting haptics for intraocular lenses, subject to the following restrictions:

* * * * *

Dated: April 23, 1999.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 99–10917 Filed 4–29–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 522

Implantation or Injectable Dosage Form New Animal Drugs; Oxytetracycline Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Pliva d.d. The ANADA provides for intramuscular use of oxytetracycline injection in swine and intramuscular and intravenous use in cattle for treatment of bacterial infections susceptible to oxytetracycline.

EFFECTIVE DATE: April 30, 1999.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Pliva d.d., Ulica grada Vukovara 49, 10000 Zagreb, Croatia, filed ANADA 200–232 that provides for the use of Geomycin 200 (oxytetracycline injection) for treatment of diseases caused by oxytetracycline susceptible organisms as follows: Intramuscular use in swine for treatment of bacterial enteritis (scours, colibacillosis) caused by *Escherichia coli*, pneumonia caused by *Pasteurella multocida*, and leptospirosis caused by *Leptospira pomona*, and in sows as an aid in the control of infectious enteritis (baby pig scours, colibacillosis) in suckling pigs caused by *E. coli*; intramuscular and intravenous use in cattle for the treatment of bacterial pneumonia and shipping fever complex associated with *Pasteurella* spp. and *Haemophilus* spp., infectious bovine keratoconjunctivitis (pinkeye) caused by *Moraxella bovis*, foot rot and diptheria caused by *Fusobacterium necrophorum*, bacterial enteritis (scours) caused by *E. coli*, wooden tongue caused by *Actinobacillus lignieresi*, leptospirosis caused by *L. pomona*, and wound infections and acute metritis caused by strains of streptococcal and staphylococcal organisms.

Approval of Pliva d.d.'s ANADA 200–232 for oxytetracycline injection is as a generic copy of Pfizer, Inc.'s NADA 113–232 for Liquamycin® LA–200® (oxytetracycline injection). ANADA 200–232 is approved as of February 12, 1999, and the regulations are amended in 21 CFR 522.1660(b) and (d) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

Because Pliva d.d. has not been previously listed in the animal drug regulations as the sponsor of an approved application, 21 CFR 510.600 is amended in paragraphs (c)(1) and (c)(2) to add entries for the firm.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9

a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 510

Administrative practices and procedures, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 522

Animal drugs.

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

PART 510—NEW ANIMAL DRUGS

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

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

2. Section 510.600 is amended in the table in paragraph (c)(1) by alphabetically adding an entry for ''Pliva d.d.'' and in the table in paragraph (c)(2) by numerically adding an entry for ''011722'' to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * *	* * *
Pliva d.d., Ulica grada Vukovara 49, 10000 Zagreb, Croatia	011722
* * *	* * *

(2) * * *

Drug labeler code	Firm name and address
* * *	* * *
011722	Pliva d.d., Ulica grada Vukovara 49, 10000 Zagreb, Croatia
* * *	* * *

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

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

Authority: 21 U.S.C. 360b.

§ 522.1660 [Amended]

2. Section 522.1660 *Oxytetracycline injection* is amended in paragraphs (b) and (d)(2)(iii) by adding the number ''011722,'' after ''000069''.

Dated: April 21, 1999.

George A. Mitchell,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 99–10793 Filed 4–29–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 20, and 25

[TD 8819]

RIN 1545–AX14

Use of Actuarial Tables in Valuing Annuities, Interests for Life or Terms of Years, and Remainder or Reversionary Interests

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains regulations relating to the use of actuarial tables in valuing annuities, interests for life or terms of years, and remainder or reversionary interests. These regulations are necessary because section 7520(c)(3) directs the Secretary to update the actuarial tables to reflect the most recent mortality experience available. These regulations will effect the valuation of inter vivos and testamentary transfers of interests dependent on one or more measuring lives. 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 elsewhere in this issue of the **Federal Register.**

DATES: These regulations are effective May 1, 1999.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, William L. Blodgett, (202) 622–3090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the regulations revising certain tables used for the valuation of partial interests in property under section 7520 of the Internal Revenue Code of 1986 (Code) to reflect the most recent mortality experience available.

In General

Section 7520, effective for transfers for which the valuation date is after

April 30, 1989, provides that the value of an annuity, an interest for life or a term of years, and a remainder or reversionary interest is to be determined under tables published by the Internal Revenue Service based on a discount rate (rounded to the nearest two-tenths of one percent) equal to 120 percent of the applicable Federal mid-term rate in effect under section 1274(d)(1) for the month in which the valuation date falls. Section 7520(c)(3) directed the Secretary to issue tables not later than December 31, 1989, utilizing the then most recent mortality experience. Thereafter, the Secretary is directed to revise the tables used in valuing interests dependent on mortality experience not less frequently than once each 10 years to take into account the most recent mortality experience available as of the time of the revision.

These regulations incorporate revised Table S (Single Life Remainder Factors) and Table U(1) (Unitrust Single Life Remainder Factors) based on data compiled from the 1990 census as set forth in Life Table 90CM, and make conforming amendments to various sections to reflect the revised tables. The current tables are moved to sections containing actuarial material for historical reference. Table B, Table D, Tables F(4.2) through F(14.0), Table J, and Table K, which are not based on mortality experience, are not changed. Internal Revenue Service Publications 1457 ''Actuarial Values, Book Aleph'' (forthcoming 1999), 1458 ''Actuarial Values, Book Beth'' (forthcoming 1999), and 1459 ''Actuarial Values, Book Gimel'' (forthcoming 1999) will contain a complete set of actuarial tables that include factors not contained in the regulations (for example, annuity and life interest factors). Although not available on May 1, 1999, IRS anticipates these publications will be available by July 1, 1999. These publications will be available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402.

The following chart summarizes the applicable interest rates and the citations to textual materials and tables for the various periods covered under the regulations:

CROSS REFERENCE TO REGULATION SECTIONS

Valuation period	Interest rate	Regulation section	Table
Section 642:			
Valuation, in general		1.642(c)–6	
Before 01/01/52	4%	1.642(c)–6A(a)	
01/01/52–12/31/70	3.5%	1.642(c)–6A(b)	
01/01/71–11/30/83	6%	1.642(c)–6A(c)	
12/01/83–04/30/89	10%	1.642(c)–6A(d)	Table G.
05/01/89–04/30/99	§ 7520	1.642(c)–6A(e)	Table S (5/1/89–4/30/99).
After 04/30/99	§ 7520	1.642(c)–6T(e)	Table S (after 04/30/99).
Section 664:			
Valuation, in general		1.664–4	
Before 01/01/52	4%	1.664–4A(a)	
01/01/52–12/31/70	3.5%	1.664–4A(b)	
01/01/71–11/30/83	6%	1.664–4A(c)	
12/01/83–04/30/89	10%	1.664–4A(d)	Table E, Table F(1).
05/01/89–04/30/99	§ 7520	1.664–4A(e)	Table U(1) (5/1/89–4/30/99).
After 04/30/99	§ 7520	1.664–4T(e)	Table U(1) (after 04/30/99).
		1.664–4(e)	Table D and Tables F(4.2)–F(14.0).
Section 2031:			
Valuation, in general		20.2031–7	
Before 01/01/52	4%	20.2031–7A(a)	
01/01/52–12/31/70	3.5%	20.2031–7A(b)	
01/01/71–11/30/83	6%	20.2031–7A(c)	
12/01/83–04/30/89	10%	20.2031–7A(d)	Table A, Table B, Table LN.
05/01/89–04/30/99	§ 7520	20.2031–7A(e)	Table S (5/1/89–4/30/99) Life Table 80CNSMT.
After 04/30/99	§ 7520	20.2031–7T(d)	Table S (after 04/30/99) and Life Table 90CM.
		20.2031–7(d)	Table B, Table J, Table K.
Section 2512:			
Valuation, in general		25.2512–5	
Before 01/01/52	4%	25.2512–5A(a)	
01/01/52–12/31/70	3.5%	25.2512–5A(b)	
01/01/71–11/30/83	6%	25.2512–5A(c)	
12/01/83–04/30/89	10%	25.2512–5A(d)	
05/01/89–04/30/99	§ 7520	25.2512–5A(e)	
After 04/30/99	§ 7520	25.2512–5T(d)	

Effective Dates

These regulations are applicable in the case of annuities, interests for life or terms of years, and remainder or reversionary interests created after April 30, 1999.

Transitional Rules

The regulations provide certain transitional rules intended to alleviate any adverse consequences resulting from the proposed regulatory change. For gift tax purposes, if the valuation date of a transfer is after April 30, 1999, but before July 1, 1999, the donor may determine the value of the gift (and/or any applicable charitable deduction) under tables based on either Life Table 80CNSMT or Table 90CM (at the donor's option). Similarly, for estate tax purposes, if the decedent dies after April 30, 1999, but before July 1, 1999, the value of any interest (and/or any applicable charitable deduction) may be determined under tables based on either Table 80CNSMT or Table 90CM, at the option of the decedent's executor. However, the section 7520 interest rate utilized is the appropriate rate for the month in which the valuation date occurs. In accordance with this transitional rule and those contained in

§§ 1.7520–2(a)(2), 20.7520–2(a)(2) and 25.7520–2(a)(2), in cases involving a charitable deduction, if the valuation date occurs after April 30, 1999, and before July 1, 1999, and the executor or donor elects under section 7520(a) to use the section 7520 interest rate for March 1999 or April 1999, then the mortality experience contained in 80CNSMT must be used. If the executor or donor uses the section 7520 interest rate for May 1999 or for June 1999, then the tables based on either Table 80CNSMT or Table 90CM may be used. However, if the valuation date occurs after June 30, 1999, the executor or donor must use the new mortality experience contained in Table 90CM even if a prior month interest rate election under section 7520(a) is made.

In addition, for estate tax purposes, the estate of a mentally incompetent decedent may elect to value the property interest included in the gross estate under the mortality table and interest rate in effect at the time the decedent became mentally incompetent or the mortality table and interest rate in effect on the decedent's date of death if the decedent was under a mental incapacity that existed on May 1, 1999, and continued uninterrupted until the decedent's death, or the decedent died within 90 days of regaining competency after April 30, 1999.

Special Analysis

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, and because these regulations do not impose a collection of information requirement on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be 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 William L. Blodgett, Office of Assistant Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 20

Estate taxes, Reporting and recordkeeping requirements.

26 CFR Part 25

Gift taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1, 20, and 25 are 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 in part as follows:

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

Section 1.170A–12 also issued under 26 U.S.C. 170(f)(4). * * *

Section 1.642(c)–6 also issued under 26 U.S.C. 642(c)(5).

Section 1.642(c)–6T also issued under 26 U.S.C. 642(c)(5).

Section 1.642(c)–6A also issued under 26 U.S.C. 642(c)(5).

Section 1.664–1 also issued under 26 U.S.C. 664(a).

Section 1.664–2 also issued under 26 U.S.C. 664(a).

Section 1.664–3 also issued under 26 U.S.C. 664(a).

Section 1.664–4 also issued under 26 U.S.C. 664(a).

Section 1.664–4T also issued under 26 U.S.C. 664(a).

Section 1.664–4A also issued under 26 U.S.C. 664(a). * * *

Section 1.7520–1T also issued under 26 U.S.C. 7520(c)(2). * * *

Par. 2. Section 1.170A–6 is amended by revising paragraph (c)(5), *Example* (*2*)(b) introductory text to read as follows:

§ 1.170A–6 Charitable contributions in trust.

* * * * *

(c) * * *

(5) * * *

Example 2. * * *

(b) The section 7520 rate at the time of the transfer was 6.0 percent. By reference to Table F(6.0) in § 1.664–4(e)(6), the adjusted payout rate is 4.717% (5% × 0.943396). The present value of the reversion is $6,473.75, computed by reference to Table D in § 1.664–4(e)(6), as follows:

* * * * *

Par. 3. Section 1.170A–12T is added to read as follows:

§ 1.170A–12T Valuation of a remainder interest in real property for contributions made after July 31, 1969 (temporary).

(a) through (b)(1) [Reserved] For further guidance see § 1.170A–12(a) through (b)(1).

(b)(2) *Computation of depreciation factor after April 30, 1999.* If the valuation of the remainder interest in depreciable property is dependent upon the continuation of one life, a special factor must be used. The factor determined under this paragraph (b)(2) is carried to the fifth decimal place. The special factor is to be computed on the basis of the interest rate and life contingencies prescribed in § 20.2031–7T (or for certain prior periods, § 20.2031–7A) of this chapter (Estate Tax Regulations) and on the assumption that the property depreciates on a straight-line basis over its estimated useful life. For transfers for which the valuation date is after April 30, 1999, special factors for determining the present value of a remainder interest following one life and an example describing the computation are contained in Internal Revenue Service Publication 1459, ''Actuarial Values, Book Gimel,'' (1999). A copy of this publication is available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. See, however, § 1.7520–3(b) (relating to exceptions to the use of prescribed tables under certain circumstances). Otherwise, in the case of the valuation of a remainder interest following one life, the special factor may be obtained through use of the following formula:

$$\left(1+\frac{i}{2}\right)\sum_{t=0}^{n-1} v^{(t+1)}\left[\left(1-\frac{1_{x+t+1}}{1_x}\right)-\left(1-\frac{1_{x+t}}{1_x}\right)\right]\left(1-\frac{1}{2n}-\frac{t}{n}\right)$$

Where:
n=the estimated number of years of useful life,
i=the applicable interest rate under section 7520 of the Internal Revenue Code,
v=1 divided by the sum of 1 plus the applicable interest rate under section 7520 of the Internal Revenue Code,
x=the age of the life tenant, and
lx=number of persons living at age x as set forth in Table 90CM of § 20.2031–7T (or, for prior periods, the tables set forth under § 20.2031–7A) of this chapter.

(3) The following example illustrates the provisions of this paragraph (b):

Example. A, who is 62, donates to Y University a remainder interest in a personal residence, consisting of a house and land, subject to a reserved life estate in A. At the time of the gift, the land has a value of $30,000 and the house has a value of $100,000 with an estimated useful life of 45 years, at the end of which the value of the house is expected to be $20,000. The portion of the property considered to be depreciable is $80,000 (the value of the house ($100,000) less its expected value at the end of 45 years ($20,000)). The portion of the property considered to be nondepreciable is $50,000 (the value of the land at the time of the gift ($30,000) plus the expected value of the house at the end of 45 years ($20,000)). At the time of the gift, the interest rate prescribed under section 7520 is 8.4 percent. Based on an interest rate of 8.4 percent, the remainder factor for $1.00 prescribed in § 20.2031–7T(d) of this chapter for a person age 62 is 0.27925. The value of the nondepreciable remainder interest is $13,962.50 (0.27925 times $50,000). The value of the depreciable remainder interest is $16,148.80 (0.20186, computed under the formula described in paragraph (b)(2) of this section, times $80,000). Therefore, the value of the remainder interest is $30,111.30.

(c) through (e) [Reserved]. For further guidance see § 1.170A–12 (c) through (e).

Par. 4. Section 1.642(c)–6 is amended as follows:

1. Revise the section heading.
2. Paragraph (d) is removed.
3. Paragraph (e) is redesignated as paragraph (e) of § 1.642(c)–6A.
4. New paragraphs (d) and (e) are added.
5. Paragraph (f) is revised.

The revisions and addition read as follows:

§ 1.642(c)–6 Valuation of a remainder interest in property transferred to a pooled income fund.

* * * * *

(d) and (e) [Reserved]. For further guidance, see § 1.642(c)–6T(d) and (e).

(f) *Effective dates.* This section applies after April 30, 1989, and before May 1, 1999.

Par. 5. Section 1.642(c)–6T is added to read as follows:

§ 1.642(c)–6T Valuation of a remainder interest in property transferred to a pooled income fund (temporary).

(a) through (c) [Reserved]. For further guidance, see § 1.642(c)–6(a) through (c).

(d) *Valuation.* The present value of the remainder interest in property transferred to a pooled income fund after April 30, 1999, is determined under paragraph (e) of this section. The present value of the remainder interest in property transferred to a pooled income fund for which the valuation date is before May 1, 1999, is determined under the following sections:

Valuation Dates		Applicable regulations
After	Before	
	01–01–52	1.642(c)–6A(a).
12–31–51 ...	01–01–71	1.642(c)–6A(b).
12–31–70 ...	12–01–83	1.642(c)–6A(c).
11–30–83 ...	05–01–89	1.642(c)–6A(d).
04–30–89 ...	05–01–99	1.642(c)–6A(e).

(e) *Present value of the remainder interest in the case of transfers to pooled income funds for which the valuation date is after April 30, 1999*—(1) *In general.* In the case of transfers to pooled income funds for which the valuation date is after April 30, 1999, the present value of a remainder interest is determined under this section. See, however, § 1.7520–3(b) (relating to exceptions to the use of prescribed tables under certain circumstances). The present value of a remainder interest that is dependent on the termination of the life of one individual is computed by the use of Table S in paragraph (e)(6) of this section. For purposes of the computations under this section, the age of an individual is the age at the individual's nearest birthday.

(2) *Transitional rules for valuation of transfers to pooled income funds.* (i) For purposes of sections 2055, 2106, or 2624, if on May 1, 1999, the decedent was mentally incompetent so that the disposition of the property could not be changed, and the decedent died after April 30, 1999, without having regained competency to dispose of the decedent's property, or the decedent died within 90 days of the date that the decedent first regained competency after April 30, 1999, the present value of a remainder interest is determined as if the valuation date with respect to the decedent's gross estate is either before May 1, 1999, or after April 30, 1999, at the option of the decedent's executor.

(ii) For purposes of sections 170, 2055, 2106, 2522, or 2624, in the case of transfers to a pooled income fund for which the valuation date is after April 30, 1999, and before July 1, 1999, the present value of the remainder interest under this section is determined by use of the section 7520 interest rate for the month in which the valuation date occurs (See §§ 1.7520–1(b) and 1.7520–2(a)(2)) and the appropriate actuarial tables under either paragraph (e)(6) of this section or § 1.642(c)–6A(e)(5), at the option of the donor or the decedent's executor, as the case may be.

(iii) For purposes of paragraphs (e)(2)(i) and (ii) of this section, where the donor or decedent's executor is given the option to use the appropriate actuarial tables under either paragraph (e)(6) of this section or § 1.642(c)–6A(e)(5), the donor or decedent's executor must use the same actuarial table with respect to each individual transaction and with respect to all transfers occurring on the valuation date (e.g., gift and income tax charitable deductions with respect to the same transfer must be determined based on the same tables, and all assets includible in the gross estate and/or estate tax deductions claimed must be valued based on the same tables).

(3) *Present value of a remainder interest.* The present value of a remainder interest in property transferred to a pooled income fund is computed on the basis of—

(i) Life contingencies determined from the values of *lx* that are set forth in Table 90CM in § 20.2031–7T(d)(7) of this chapter (Estate Tax Regulations) (See § 20.2031–7A of this chapter for certain prior periods); and

(ii) Discount at a rate of interest, compounded annually, equal to the highest yearly rate of return of the pooled income fund for the 3 taxable years immediately preceding its taxable year in which the transfer of property to the fund is made. For purposes of this paragraph (e), the yearly rate of return of a pooled income fund is determined as provided in § 1.642(c)–6(c) unless the highest rate of return is deemed to be the rate described in paragraph (e)(4) of this section for funds in existence less than 3 taxable years. For purposes of this paragraph (e)(3)(ii), the first taxable year of a pooled income fund is considered a taxable year even though the taxable year consists of less than 12 months. However, appropriate adjustments must be made to annualize the rate of return earned by the fund for that period. Where it appears from the facts and circumstances that the highest yearly rate of return of the fund for the 3 taxable years immediately preceding

the taxable year in which the transfer of property is made has been purposely manipulated to be substantially less than the rate of return that would otherwise be reasonably anticipated with the purpose of obtaining an excessive charitable deduction, that rate of return may not be used. In that case, the highest yearly rate of return of the fund is determined by treating the fund as a pooled income fund that has been in existence for less than 3 preceding taxable years.

(4) *Pooled income funds in existence less than 3 taxable years.* If a pooled income fund has been in existence less than 3 taxable years immediately preceding the taxable year in which the transfer is made to the fund and the transfer to the fund is made after April 30, 1989, the highest rate of return is deemed to be the interest rate (rounded to the nearest two-tenths of one percent) that is 1 percent less than the highest annual average of the monthly section 7520 rates for the 3 calendar years immediately preceding the calendar year in which the transfer to the pooled income fund is made. The deemed rate of return for transfers to new pooled income funds is recomputed each calendar year using the monthly section 7520 rates for the 3-year period immediately preceding the calendar year in which each transfer to the fund is made until the fund has been in existence for 3 taxable years and can compute its highest rate of return for the 3 taxable years immediately preceding the taxable year in which the transfer of property to the fund is made in accordance with the rules set forth in the first sentence of paragraph (e)(3)(ii) of this section.

(5) *Computation of value of remainder interest.* The factor that is used in determining the present value of a remainder interest that is dependent on the termination of the life of one individual is the factor from Table S in paragraph (e)(6) of this section under the appropriate yearly rate of return opposite the number that corresponds to the age of the individual upon whose life the value of the remainder interest is based (See § 1.642(c)–6A for certain prior periods). The tables in paragraph (e)(6) of this section include factors for yearly rates of return from 4.2 to 14 percent. Many actuarial factors not contained in the tables in paragraph (e)(6) of this section are contained in Table S in Internal Revenue Service Publication 1457, ''Actuarial Values, Book Aleph,'' (1999). A copy of this publication is available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. For other situations, see § 1.642(c)–6(b). If the yearly rate of return is a percentage that is between the yearly rates of return for which factors are provided, a linear interpolation must be made. The present value of the remainder interest is determined by multiplying the fair market value of the property on the valuation date by the appropriate remainder factor. This paragraph (e)(5) may be illustrated by the following example:

Example. A, who is 54 years and 8 months, transfers $100,000 to a pooled income fund, and retains a life income interest in the property. The highest yearly rate of return earned by the fund for its 3 preceding taxable years is 9.47 percent. In Table S, the remainder factor opposite 55 years under 9.4 percent is .17449 and under 9.6 percent is .17001. The present value of the remainder interest is $17,292.00, computed as follows:

Factor at 9.4 percent for age 55	.17449
Factor at 9.6 percent for age 55	.17001
Difference	.00448

Interpolation adjustment:

$$\frac{9.47\% - 9.4\%}{0.2\%} = \frac{\times}{.00448}$$

$$\times = .00157$$

Factor at 9.4 percent for age 55	.17449
Less: Interpolation adjustment	.00157
Interpolated factor	.17292
Present value of remainder interest: ($100,000 × .17292)	$17,292.00

(6) *Actuarial tables.* In the case of transfers for which the valuation date is after April 30, 1999, the present value of a remainder interest dependent on the termination of one life in the case of a transfer to a pooled income fund is determined by use of the following Table S:

TABLE S.—SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1999 BASED ON LIFE TABLE 90CM

[Interest rate]

Age	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
0	.06752	.06130	.05586	.05109	.04691	.04322	.03998	.03711	.03458	.03233
1	.06137	.05495	.04932	.04438	.04003	.03620	.03283	.02985	.02721	.02487
2	.06325	.05667	.05088	.04580	.04132	.03737	.03388	.03079	.02806	.02563
3	.06545	.05869	.05275	.04752	.04291	.03883	.03523	.03203	.02920	.02668
4	.06784	.06092	.05482	.04944	.04469	.04048	.03676	.03346	.03052	.02791
5	.07040	.06331	.05705	.05152	.04662	.04229	.03845	.03503	.03199	.02928
6	.07310	.06583	.05941	.05372	.04869	.04422	.04025	.03672	.03357	.03076
7	.07594	.06849	.06191	.05607	.05089	.04628	.04219	.03854	.03528	.03236
8	.07891	.07129	.06453	.05853	.05321	.04846	.04424	.04046	.03709	.03407
9	.08203	.07423	.06731	.06115	.05567	.05079	.04643	.04253	.03904	.03592
10	.08532	.07734	.07024	.06392	.05829	.05326	.04877	.04474	.04114	.03790
11	.08875	.08059	.07331	.06683	.06104	.05587	.05124	.04709	.04336	.04002
12	.09233	.08398	.07653	.06989	.06394	.05862	.05385	.04957	.04572	.04226
13	.09601	.08748	.07985	.07304	.06693	.06146	.05655	.05214	.04816	.04458
14	.09974	.09102	.08322	.07624	.06997	.06435	.05929	.05474	.05064	.04694
15	.10350	.09460	.08661	.07946	.07303	.06725	.06204	.05735	.05312	.04930
16	.10728	.09818	.09001	.08268	.07608	.07014	.06479	.05996	.05559	.05164
17	.11108	.10179	.09344	.08592	.07916	.07306	.06755	.06257	.05807	.05399
18	.11494	.10545	.09691	.08921	.08227	.07601	.07034	.06521	.06057	.05636
19	.11889	.10921	.10047	.09259	.08548	.07904	.07322	.06794	.06315	.05880
20	.12298	.11310	.10417	.09610	.08881	.08220	.07622	.07078	.06584	.06135
21	.12722	.11713	.10801	.09976	.09228	.08550	.07935	.07375	.06866	.06403
22	.13159	.12130	.11199	.10354	.09588	.08893	.08260	.07685	.07160	.06682
23	.13613	.12563	.11612	.10748	.09964	.09250	.08601	.08009	.07468	.06975
24	.14084	.13014	.12043	.11160	.10357	.09625	.08958	.08349	.07793	.07284

Age	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
25	.14574	.13484	.12493	.11591	.10768	.10018	.09334	.08708	.08135	.07611
26	.15084	.13974	.12963	.12041	.11199	.10431	.09728	.09085	.08496	.07956
27	.15615	.14485	.13454	.12513	.11652	.10865	.10144	.09484	.08878	.08322
28	.16166	.15016	.13965	.13004	.12124	.11319	.10580	.09901	.09279	.08706
29	.16737	.15567	.14497	.13516	.12617	.11792	.11035	.10339	.09699	.09109
30	.17328	.16138	.15048	.14047	.13129	.12286	.11510	.10796	.10138	.09532
31	.17938	.16728	.15618	.14599	.13661	.12799	.12004	.11272	.10597	.09974
32	.18568	.17339	.16210	.15171	.14214	.13333	.12520	.11769	.11076	.10435
33	.19220	.17972	.16824	.15766	.14790	.13889	.13058	.12289	.11578	.10920
34	.19894	.18627	.17460	.16383	.15388	.14468	.13618	.12831	.12102	.11426
35	.20592	.19307	.18121	.17025	.16011	.15073	.14204	.13399	.12652	.11958
36	.21312	.20010	.18805	.17691	.16658	.15701	.14814	.13990	.13225	.12514
37	.22057	.20737	.19514	.18382	.17331	.16356	.15450	.14608	.13825	.13096
38	.22827	.21490	.20251	.19100	.18031	.17038	.16113	.15253	.14452	.13705
39	.23623	.22270	.21013	.19845	.18759	.17747	.16805	.15927	.15108	.14344
40	.24446	.23078	.21805	.20620	.19516	.18487	.17527	.16631	.15795	.15013
41	.25298	.23915	.22626	.21425	.20305	.19259	.18282	.17368	.16514	.15715
42	.26178	.24782	.23478	.22262	.21125	.20062	.19069	.18138	.17267	.16450
43	.27087	.25678	.24360	.23129	.21977	.20898	.19888	.18941	.18053	.17220
44	.28025	.26603	.25273	.24027	.22860	.21766	.20740	.19777	.18873	.18023
45	.28987	.27555	.26212	.24953	.23772	.22664	.21622	.20644	.19724	.18858
46	.29976	.28533	.27179	.25908	.24714	.23591	.22536	.21542	.20606	.19725
47	.30987	.29535	.28171	.26889	.25682	.24546	.23476	.22468	.21518	.20621
48	.32023	.30563	.29190	.27897	.26678	.25530	.24447	.23425	.22460	.21549
49	.33082	.31615	.30234	.28931	.27702	.26543	.25447	.24412	.23434	.22509
50	.34166	.32694	.31306	.29995	.28756	.27586	.26479	.25432	.24441	.23502
51	.35274	.33798	.32404	.31085	.29838	.28658	.27541	.26482	.25479	.24528
52	.36402	.34924	.33525	.32200	.30946	.29757	.28630	.27561	.26547	.25584
53	.37550	.36070	.34668	.33339	.32078	.30882	.29746	.28667	.27643	.26669
54	.38717	.37237	.35833	.34500	.33234	.32031	.30888	.29801	.28766	.27782
55	.39903	.38424	.37019	.35683	.34413	.33205	.32056	.30961	.29918	.28925
56	.41108	.39631	.38227	.36890	.35617	.34405	.33250	.32149	.31099	.30097
57	.42330	.40857	.39455	.38118	.36844	.35629	.34469	.33363	.32306	.31297
58	.43566	.42098	.40699	.39364	.38089	.36873	.35710	.34600	.33538	.32522
59	.44811	.43351	.41956	.40623	.39350	.38133	.36968	.35855	.34789	.33768
60	.46066	.44613	.43224	.41896	.40624	.39408	.38243	.37127	.36058	.35033
61	.47330	.45887	.44505	.43182	.41914	.40699	.39535	.38418	.37347	.36318
62	.48608	.47175	.45802	.44485	.43223	.42011	.40848	.39732	.38660	.37629
63	.49898	.48478	.47115	.45807	.44550	.43343	.42184	.41069	.39997	.38966
64	.51200	.49793	.48442	.47143	.45895	.44694	.43539	.42427	.41357	.40326
65	.52512	.51121	.49782	.48495	.47255	.46062	.44912	.43805	.42738	.41709
66	.53835	.52461	.51137	.49862	.48634	.47449	.46307	.45206	.44143	.43118
67	.55174	.53818	.52511	.51250	.50034	.48860	.47727	.46633	.45576	.44556
68	.56524	.55188	.53899	.52654	.51452	.50291	.49168	.48083	.47034	.46020
69	.57882	.56568	.55299	.54071	.52885	.51737	.50627	.49552	.48513	.47506
70	.59242	.57951	.56703	.55495	.54325	.53193	.52096	.51034	.50004	.49007
71	.60598	.59332	.58106	.56918	.55767	.54651	.53569	.52520	.51503	.50516
72	.61948	.60707	.59504	.58338	.57206	.56108	.55043	.54009	.53004	.52029
73	.63287	.62073	.60895	.59751	.58640	.57561	.56513	.55495	.54505	.53543
74	.64621	.63435	.62282	.61162	.60073	.59015	.57985	.56984	.56009	.55061
75	.65953	.64796	.63671	.62575	.61510	.60473	.59463	.58480	.57523	.56591
76	.67287	.66160	.65063	.63995	.62954	.61940	.60952	.59989	.59050	.58135
77	.68622	.67526	.66459	.65419	.64404	.63415	.62450	.61509	.60590	.59694
78	.69954	.68892	.67856	.66845	.65858	.64895	.63955	.63036	.62140	.61264
79	.71278	.70250	.69246	.68265	.67308	.66372	.65457	.64563	.63690	.62836
80	.72581	.71588	.70618	.69668	.68740	.67833	.66945	.66077	.65227	.64396
81	.73857	.72899	.71962	.71045	.70147	.69268	.68408	.67566	.66741	.65933
82	.75101	.74178	.73274	.72389	.71522	.70672	.69840	.69024	.68225	.67441
83	.76311	.75423	.74553	.73700	.72864	.72044	.71240	.70451	.69678	.68919
84	.77497	.76645	.75809	.74988	.74183	.73393	.72618	.71857	.71110	.70377
85	.78665	.77848	.77047	.76260	.75487	.74728	.73982	.73250	.72530	.71823
86	.79805	.79025	.78258	.77504	.76764	.76036	.75320	.74617	.73925	.73245
87	.80904	.80159	.79427	.78706	.77998	.77301	.76615	.75940	.75277	.74624
88	.81962	.81251	.80552	.79865	.79188	.78521	.77865	.77220	.76584	.75958
89	.82978	.82302	.81636	.80980	.80335	.79699	.79072	.78455	.77847	.77248
90	.83952	.83309	.82676	.82052	.81437	.80831	.80234	.79645	.79064	.78492
91	.84870	.84260	.83658	.83064	.82479	.81902	.81332	.80771	.80217	.79671
92	.85716	.85136	.84563	.83998	.83441	.82891	.82348	.81812	.81283	.80761
93	.86494	.85942	.85396	.84858	.84326	.83801	.83283	.82771	.82266	.81767
94	.87216	.86690	.86170	.85657	.85149	.84648	.84153	.83664	.83181	.82704
95	.87898	.87397	.86902	.86412	.85928	.85450	.84977	.84510	.84049	.83592
96	.88537	.88060	.87587	.87121	.86659	.86203	.85751	.85305	.84864	.84427
97	.89127	.88672	.88221	.87775	.87335	.86898	.86467	.86040	.85618	.85200
98	.89680	.89245	.88815	.88389	.87968	.87551	.87138	.86730	.86326	.85926

Age	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
99	.90217	.89803	.89393	.88987	.88585	.88187	.87793	.87402	.87016	.86633
100	.90738	.90344	.89953	.89567	.89183	.88804	.88428	.88056	.87687	.87322
101	.91250	.90876	.90504	.90137	.89772	.89412	.89054	.88699	.88348	.88000
102	.91751	.91396	.91045	.90696	.90350	.90007	.89668	.89331	.88997	.88666
103	.92247	.91912	.91579	.91249	.90922	.90598	.90276	.89957	.89640	.89326
104	.92775	.92460	.92148	.91839	.91532	.91227	.90924	.90624	.90326	.90031
105	.93290	.92996	.92704	.92415	.92127	.91841	.91558	.91276	.90997	.90719
106	.93948	.93680	.93415	.93151	.92889	.92628	.92370	.92113	.91857	.91604
107	.94739	.94504	.94271	.94039	.93808	.93579	.93351	.93124	.92899	.92675
108	.95950	.95767	.95585	.95404	.95224	.95045	.94867	.94689	.94512	.94336
109	.97985	.97893	.97801	.97710	.97619	.97529	.97438	.97348	.97259	.97170

Age	6.2%	6.4%	6.6%	6.8%	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%
0	.03034	.02857	.02700	.02559	.02433	.02321	.02220	.02129	.02047	.01973
1	.02279	.02094	.01929	.01782	.01650	.01533	.01427	.01331	.01246	.01168
2	.02347	.02155	.01983	.01829	.01692	.01569	.01458	.01358	.01268	.01187
3	.02444	.02243	.02065	.01905	.01761	.01632	.01516	.01412	.01317	.01232
4	.02558	.02349	.02163	.01996	.01846	.01712	.01590	.01481	.01382	.01292
5	.02686	.02469	.02275	.02101	.01945	.01804	.01677	.01562	.01458	.01364
6	.02825	.02600	.02398	.02217	.02053	.01906	.01773	.01653	.01544	.01445
7	.02976	.02742	.02532	.02343	.02172	.02019	.01880	.01754	.01640	.01536
8	.03137	.02894	.02675	.02479	.02301	.02140	.01995	.01864	.01744	.01635
9	.03311	.03059	.02832	.02627	.02442	.02274	.02122	.01985	.01859	.01745
10	.03499	.03237	.03001	.02788	.02595	.02420	.02262	.02118	.01987	.01867
11	.03700	.03428	.03183	.02961	.02760	.02578	.02413	.02262	.02125	.02000
12	.03913	.03632	.03377	.03146	.02937	.02748	.02575	.02418	.02275	.02144
13	.04135	.03843	.03579	.03339	.03122	.02924	.02744	.02580	.02431	.02294
14	.04359	.04057	.03783	.03534	.03308	.03102	.02915	.02744	.02587	.02444
15	.04584	.04270	.03986	.03728	.03493	.03279	.03083	.02905	.02742	.02593
16	.04806	.04482	.04187	.03919	.03674	.03452	.03248	.03063	.02892	.02736
17	.05029	.04692	.04387	.04108	.03855	.03623	.03411	.03218	.03040	.02877
18	.05253	.04905	.04588	.04299	.04036	.03795	.03574	.03373	.03187	.03017
19	.05484	.05124	.04796	.04496	.04222	.03972	.03742	.03532	.03339	.03161
20	.05726	.05354	.05013	.04702	.04418	.04158	.03919	.03700	.03498	.03313
21	.05980	.05595	.05242	.04920	.04625	.04354	.04105	.03877	.03667	.03473
22	.06246	.05847	.05482	.05147	.04841	.04559	.04301	.04063	.03844	.03642
23	.06524	.06112	.05734	.05387	.05069	.04777	.04508	.04260	.04032	.03821
24	.06819	.06392	.06001	.05642	.05312	.05008	.04728	.04470	.04232	.04012
25	.07131	.06690	.06285	.05913	.05570	.05255	.04964	.04695	.04447	.04218
26	.07460	.07005	.06586	.06200	.05845	.05518	.05215	.04936	.04677	.04438
27	.07810	.07340	.06907	.06508	.06140	.05800	.05485	.05195	.04925	.04676
28	.08179	.07693	.07246	.06833	.06451	.06098	.05772	.05469	.05189	.04929
29	.08566	.08065	.07603	.07176	.06780	.06414	.06075	.05761	.05469	.05198
30	.08973	.08456	.07978	.07536	.07127	.06748	.06396	.06069	.05766	.05483
31	.09398	.08865	.08372	.07915	.07491	.07098	.06733	.06394	.06078	.05785
32	.09843	.09294	.08785	.08313	.07875	.07468	.07089	.06737	.06409	.06103
33	.10310	.09745	.09220	.08732	.08279	.07858	.07466	.07100	.06759	.06441
34	.10799	.10217	.09676	.09173	.08705	.08269	.07862	.07483	.07129	.06798
35	.11314	.10715	.10157	.09638	.09155	.08704	.08283	.07890	.07522	.07179
36	.11852	.11236	.10662	.10127	.09628	.09162	.08726	.08319	.07938	.07581
37	.12416	.11783	.11193	.10641	.10126	.09645	.09194	.08772	.08377	.08006
38	.13009	.12359	.11751	.11183	.10652	.10155	.09689	.09253	.08843	.08459
39	.13629	.12962	.12338	.11753	.11206	.10693	.10212	.09761	.09337	.08938
40	.14281	.13597	.12955	.12355	.11791	.11262	.10766	.10299	.09860	.09447
41	.14966	.14264	.13606	.12989	.12409	.11864	.11352	.10870	.10417	.09989
42	.15685	.14966	.14291	.13657	.13061	.12500	.11972	.11475	.11006	.10564
43	.16437	.15702	.15010	.14360	.13747	.13171	.12627	.12115	.11631	.11174
44	.17224	.16472	.15764	.15098	.14469	.13876	.13317	.12789	.12290	.11819
45	.18042	.17274	.16550	.15867	.15223	.14615	.14040	.13496	.12982	.12496
46	.18893	.18110	.17370	.16671	.16011	.15387	.14796	.14238	.13708	.13207
47	.19775	.18975	.18220	.17505	.16830	.16190	.15584	.15010	.14466	.13950
48	.20688	.19873	.19102	.18373	.17682	.17027	.16406	.15817	.15258	.14727
49	.21633	.20804	.20018	.19274	.18568	.17898	.17262	.16658	.16084	.15539
50	.22612	.21769	.20969	.20210	.19490	.18805	.18155	.17536	.16948	.16388
51	.23625	.22769	.21955	.21182	.20448	.19749	.19084	.18452	.17849	.17275
52	.24669	.23799	.22973	.22186	.21438	.20726	.20047	.19400	.18784	.18196
53	.25742	.24861	.24022	.23222	.22461	.21735	.21043	.20383	.19753	.19151
54	.26845	.25952	.25101	.24290	.23516	.22777	.22072	.21399	.20756	.20140
55	.27978	.27074	.26212	.25389	.24604	.23853	.23136	.22450	.21793	.21166
56	.29140	.28227	.27355	.26522	.25725	.24963	.24233	.23535	.22867	.22227
57	.30333	.29411	.28529	.27686	.26879	.26106	.25365	.24656	.23976	.23324
58	.31551	.30621	.29731	.28878	.28061	.27278	.26528	.25807	.25116	.24453
59	.32790	.31854	.30956	.30095	.29269	.28477	.27716	.26986	.26284	.25610

Age	6.2%	6.4%	6.6%	6.8%	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%
60	.34050	.33107	.32202	.31334	.30500	.29699	.28929	.28190	.27478	.26794
61	.35331	.34384	.33473	.32598	.31757	.30948	.30170	.29422	.28701	.28007
62	.36639	.35688	.34772	.33892	.33044	.32229	.31443	.30687	.29958	.29255
63	.37974	.37020	.36101	.35216	.34363	.33542	.32750	.31986	.31250	.30539
64	.39334	.38378	.37456	.36568	.35711	.34884	.34087	.33317	.32574	.31857
65	.40718	.39761	.38838	.37947	.37087	.36257	.35455	.34681	.33932	.33208
66	.42128	.41172	.40249	.39357	.38496	.37663	.36858	.36079	.35326	.34597
67	.43569	.42616	.41694	.40803	.39941	.39107	.38299	.37518	.36761	.36028
68	.45038	.44089	.43170	.42281	.41419	.40585	.39777	.38994	.38235	.37499
69	.46531	.45587	.44672	.43786	.42927	.42094	.41286	.40503	.39743	.39006
70	.48040	.47103	.46194	.45312	.44456	.43626	.42820	.42038	.41278	.40540
71	.49558	.48629	.47727	.46851	.46000	.45174	.44371	.43591	.42832	.42095
72	.51082	.50162	.49268	.48399	.47554	.46733	.45934	.45157	.44401	.43666
73	.52607	.51697	.50813	.49952	.49114	.48299	.47506	.46733	.45981	.45249
74	.54139	.53241	.52367	.51515	.50686	.49879	.49092	.48325	.47578	.46849
75	.55683	.54798	.53936	.53095	.52276	.51477	.50698	.49938	.49197	.48474
76	.57243	.56373	.55524	.54696	.53888	.53100	.52330	.51579	.50846	.50130
77	.58819	.57965	.57132	.56318	.55523	.54747	.53988	.53247	.52523	.51815
78	.60408	.59572	.58755	.57957	.57177	.56414	.55668	.54939	.54225	.53527
79	.62001	.61184	.60385	.59604	.58840	.58092	.57360	.56644	.55943	.55256
80	.63582	.62786	.62007	.61244	.60497	.59765	.59048	.58347	.57659	.56985
81	.65142	.64367	.63608	.62864	.62135	.61421	.60721	.60034	.59361	.58701
82	.66673	.65920	.65182	.64458	.63748	.63052	.62368	.61698	.61041	.60395
83	.68175	.67444	.66728	.66024	.65334	.64656	.63991	.63338	.62696	.62066
84	.69657	.68950	.68256	.67574	.66904	.66246	.65599	.64964	.64340	.63727
85	.71128	.70446	.69775	.69116	.68467	.67830	.67204	.66587	.65982	.65386
86	.72576	.71919	.71272	.70636	.70010	.69394	.68789	.68193	.67606	.67029
87	.73981	.73349	.72726	.72114	.71511	.70917	.70333	.69757	.69190	.68632
88	.75342	.74735	.74137	.73548	.72968	.72396	.71833	.71279	.70732	.70194
89	.76658	.76076	.75503	.74938	.74381	.73832	.73290	.72757	.72231	.71712
90	.77928	.77371	.76823	.76281	.75748	.75221	.74702	.74190	.73684	.73186
91	.79131	.78600	.78075	.77557	.77046	.76542	.76044	.75553	.75068	.74589
92	.80246	.79737	.79235	.78740	.78250	.77767	.77290	.76818	.76353	.75893
93	.81274	.80788	.80307	.79832	.79363	.78899	.78441	.77989	.77542	.77100
94	.82232	.81766	.81306	.80850	.80401	.79956	.79517	.79082	.78653	.78228
95	.83141	.82695	.82254	.81818	.81387	.80961	.80539	.80122	.79710	.79302
96	.83996	.83569	.83147	.82729	.82316	.81907	.81503	.81103	.80707	.80315
97	.84787	.84378	.83973	.83573	.83176	.82784	.82396	.82012	.81632	.81255
98	.85530	.85138	.84750	.84366	.83985	.83609	.83236	.82867	.82502	.82140
99	.86255	.85880	.85508	.85140	.84776	.84415	.84057	.83703	.83353	.83005
100	.86960	.86601	.86246	.85894	.85546	.85200	.84858	.84519	.84183	.83849
101	.87655	.87313	.86974	.86638	.86305	.85975	.85648	.85324	.85003	.84684
102	.88338	.88012	.87689	.87369	.87052	.86738	.86426	.86116	.85809	.85505
103	.89015	.88706	.88399	.88095	.87793	.87494	.87197	.86903	.86611	.86321
104	.89737	.89446	.89157	.88871	.88586	.88304	.88024	.87745	.87469	.87195
105	.90443	.90170	.89898	.89628	.89360	.89094	.88830	.88568	.88307	.88049
106	.91351	.91101	.90852	.90605	.90359	.90115	.89873	.89632	.89392	.89154
107	.92452	.92230	.92010	.91791	.91573	.91356	.91141	.90927	.90714	.90502
108	.94161	.93987	.93814	.93641	.93469	.93298	.93128	.92958	.92790	.92622
109	.97081	.96992	.96904	.96816	.96729	.96642	.96555	.96468	.96382	.96296

Age	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
0	.01906	.01845	.01790	.01740	.01694	.01652	.01613	.01578	.01546	.01516
1	.01098	.01034	.00977	.00924	.00876	.00833	.00793	.00756	.00722	.00691
2	.01113	.01046	.00986	.00930	.00880	.00834	.00791	.00753	.00717	.00684
3	.01155	.01084	.01020	.00962	.00909	.00860	.00816	.00775	.00737	.00702
4	.01211	.01137	.01069	.01008	.00952	.00900	.00853	.00810	.00770	.00733
5	.01279	.01201	.01130	.01065	.01006	.00952	.00902	.00856	.00814	.00775
6	.01356	.01274	.01199	.01131	.01068	.01011	.00959	.00910	.00865	.00824
7	.01442	.01356	.01277	.01205	.01140	.01079	.01023	.00972	.00925	.00881
8	.01536	.01446	.01363	.01287	.01218	.01154	.01096	.01041	.00991	.00945
9	.01641	.01546	.01460	.01380	.01307	.01240	.01178	.01120	.01068	.01019
10	.01758	.01659	.01567	.01484	.01407	.01336	.01270	.01210	.01154	.01103
11	.01886	.01781	.01686	.01598	.01517	.01442	.01373	.01310	.01251	.01196
12	.02024	.01915	.01814	.01721	.01636	.01558	.01485	.01419	.01357	.01299
13	.02168	.02054	.01948	.01851	.01762	.01679	.01603	.01533	.01467	.01407
14	.02313	.02193	.02083	.01981	.01887	.01801	.01721	.01646	.01578	.01514
15	.02456	.02330	.02214	.02107	.02009	.01918	.01834	.01756	.01684	.01617
16	.02593	.02462	.02340	.02229	.02126	.02030	.01942	.01860	.01785	.01714
17	.02728	.02590	.02463	.02346	.02238	.02138	.02046	.01960	.01880	.01806
18	.02861	.02717	.02584	.02462	.02348	.02243	.02146	.02056	.01972	.01894
19	.02998	.02847	.02708	.02580	.02461	.02351	.02249	.02154	.02066	.01984
20	.03142	.02984	.02839	.02704	.02580	.02465	.02357	.02258	.02165	.02079

Age	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
21	.03295	.03130	.02978	.02837	.02706	.02585	.02473	.02368	.02271	.02180
22	.03455	.03283	.03124	.02976	.02839	.02712	.02594	.02484	.02382	.02286
23	.03626	.03446	.03279	.03124	.02981	.02847	.02723	.02608	.02500	.02400
24	.03809	.03620	.03446	.03283	.03133	.02993	.02863	.02741	.02628	.02522
25	.04005	.03808	.03625	.03456	.03298	.03151	.03014	.02887	.02768	.02656
26	.04216	.04010	.03819	.03641	.03476	.03322	.03178	.03044	.02919	.02802
27	.04444	.04229	.04029	.03843	.03670	.03508	.03357	.03217	.03085	.02962
28	.04687	.04463	.04254	.04059	.03877	.03708	.03550	.03402	.03263	.03133
29	.04946	.04712	.04493	.04289	.04099	.03922	.03756	.03600	.03455	.03318
30	.05221	.04976	.04748	.04534	.04335	.04149	.03975	.03812	.03659	.03515
31	.05511	.05255	.05017	.04794	.04585	.04390	.04208	.04037	.03876	.03725
32	.05818	.05551	.05302	.05069	.04851	.04647	.04455	.04276	.04107	.03948
33	.06144	.05866	.05606	.05363	.05135	.04921	.04720	.04532	.04355	.04188
34	.06489	.06200	.05928	.05674	.05436	.05212	.05002	.04805	.04619	.04444
35	.06857	.06555	.06273	.06007	.05758	.05524	.05304	.05097	.04902	.04718
36	.07246	.06932	.06638	.06361	.06101	.05856	.05626	.05409	.05205	.05012
37	.07659	.07332	.07025	.06737	.06466	.06210	.05969	.05742	.05528	.05325
38	.08098	.07758	.07439	.07138	.06855	.06588	.06336	.06099	.05874	.05662
39	.08563	.08210	.07878	.07565	.07270	.06992	.06729	.06480	.06245	.06023
40	.09059	.08692	.08347	.08021	.07714	.07423	.07149	.06889	.06643	.06411
41	.09586	.09206	.08848	.08509	.08189	.07886	.07600	.07329	.07072	.06828
42	.10147	.09753	.09381	.09029	.08696	.08381	.08083	.07800	.07531	.07277
43	.10742	.10334	.09948	.09583	.09237	.08909	.08598	.08304	.08024	.07758
44	.11373	.10950	.10551	.10172	.09813	.09472	.09148	.08841	.08549	.08272
45	.12035	.11599	.11185	.10792	.10420	.10066	.09730	.09410	.09106	.08817
46	.12732	.12281	.11853	.11447	.11061	.10694	.10345	.10013	.09696	.09395
47	.13460	.12995	.12553	.12133	.11733	.11353	.10991	.10646	.10317	.10004
48	.14223	.13743	.13287	.12853	.12439	.12046	.11671	.11313	.10972	.10646
49	.15020	.14526	.14056	.13608	.13181	.12774	.12385	.12015	.11661	.11322
50	.15855	.15347	.14862	.14401	.13960	.13540	.13138	.12754	.12388	.12037
51	.16727	.16205	.15707	.15232	.14777	.14344	.13929	.13532	.13153	.12789
52	.17634	.17098	.16587	.16097	.15630	.15183	.14755	.14345	.13953	.13577
53	.18576	.18027	.17501	.16999	.16518	.16057	.15616	.15194	.14789	.14400
54	.19552	.18990	.18451	.17935	.17441	.16968	.16514	.16078	.15661	.15260
55	.20564	.19989	.19437	.18908	.18402	.17915	.17449	.17001	.16571	.16157
56	.21613	.21025	.20461	.19919	.19400	.18901	.18422	.17962	.17519	.17093
57	.22698	.22098	.21522	.20968	.20436	.19925	.19434	.18961	.18507	.18069
58	.23816	.23204	.22616	.22051	.21507	.20984	.20481	.19996	.19530	.19080
59	.24962	.24339	.23740	.23163	.22608	.22073	.21558	.21062	.20584	.20123
60	.26136	.25502	.24892	.24304	.23738	.23192	.22666	.22158	.21669	.21196
61	.27339	.26695	.26075	.25477	.24900	.24343	.23806	.23288	.22787	.22304
62	.28578	.27925	.27295	.26687	.26100	.25533	.24985	.24456	.23945	.23451
63	.29854	.29192	.28553	.27935	.27339	.26762	.26205	.25666	.25145	.24641
64	.31164	.30494	.29846	.29221	.28615	.28030	.27463	.26915	.26384	.25870
65	.32508	.31831	.31177	.30543	.29930	.29336	.28761	.28203	.27663	.27140
66	.33891	.33208	.32547	.31906	.31285	.30684	.30101	.29536	.28987	.28456
67	.35318	.34630	.33963	.33316	.32689	.32081	.31491	.30918	.30363	.29823
68	.36785	.36093	.35422	.34770	.34138	.33524	.32928	.32349	.31787	.31240
69	.38290	.37595	.36920	.36265	.35628	.35009	.34408	.33824	.33256	.32703
70	.39823	.39127	.38450	.37791	.37151	.36529	.35924	.35335	.34762	.34204
71	.41378	.40681	.40003	.39343	.38701	.38076	.37467	.36875	.36298	.35736
72	.42950	.42253	.41575	.40914	.40271	.39644	.39034	.38438	.37858	.37293
73	.44535	.43840	.43162	.42502	.41858	.41231	.40619	.40022	.39440	.38872
74	.46139	.45446	.44771	.44112	.43469	.42842	.42230	.41632	.41049	.40479
75	.47769	.47080	.46408	.45752	.45111	.44485	.43874	.43277	.42693	.42123
76	.49430	.48747	.48079	.47427	.46790	.46167	.45558	.44963	.44380	.43811
77	.51123	.50447	.49786	.49139	.48506	.47888	.47282	.46690	.46111	.45543
78	.52845	.52177	.51523	.50884	.50257	.49645	.49044	.48457	.47881	.47317
79	.54584	.53926	.53282	.52650	.52032	.51426	.50833	.50251	.49681	.49122
80	.56325	.55678	.55044	.54423	.53813	.53216	.52630	.52056	.51492	.50939
81	.58054	.57419	.56797	.56186	.55587	.54999	.54422	.53856	.53300	.52754
82	.59762	.59140	.58530	.57931	.57343	.56766	.56198	.55641	.55094	.54557
83	.61448	.60840	.60243	.59657	.59081	.58515	.57958	.57411	.56874	.56346
84	.63124	.62531	.61949	.61376	.60813	.60259	.59715	.59179	.58652	.58134
85	.64800	.64224	.63657	.63099	.62550	.62010	.61478	.60955	.60441	.59934
86	.66461	.65902	.65351	.64810	.64276	.63751	.63233	.62724	.62222	.61728
87	.68083	.67541	.67008	.66483	.65965	.65455	.64953	.64458	.63970	.63489
88	.69663	.69140	.68624	.68116	.67615	.67121	.66634	.66154	.65680	.65213
89	.71201	.70696	.70199	.69708	.69224	.68747	.68276	.67811	.67353	.66900
90	.72694	.72209	.71730	.71257	.70791	.70330	.69876	.69427	.68984	.68547
91	.74117	.73650	.73190	.72735	.72286	.71842	.71404	.70972	.70545	.70123
92	.75439	.74991	.74548	.74110	.73678	.73251	.72829	.72412	.72000	.71593
93	.76664	.76233	.75806	.75385	.74969	.74557	.74150	.73748	.73350	.72957
94	.77809	.77394	.76983	.76578	.76177	.75780	.75388	.75000	.74616	.74237

Age	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
95	.78899	.78500	.78106	.77715	.77329	.76947	.76569	.76195	.75826	.75460
96	.79928	.79544	.79165	.78790	.78418	.78050	.77686	.77326	.76970	.76617
97	.80883	.80514	.80149	.79787	.79430	.79075	.78725	.78377	.78033	.77693
98	.81781	.81427	.81075	.80727	.80382	.80041	.79703	.79368	.79036	.78708
99	.82661	.82320	.81982	.81648	.81316	.80988	.80662	.80340	.80020	.79704
100	.83519	.83192	.82868	.82547	.82228	.81913	.81600	.81290	.80982	.80678
101	.84368	.84055	.83744	.83437	.83131	.82829	.82529	.82231	.81936	.81643
102	.85203	.84904	.84607	.84313	.84021	.83731	.83444	.83159	.82876	.82596
103	.86034	.85748	.85465	.85184	.84906	.84629	.84355	.84082	.83812	.83544
104	.86923	.86653	.86385	.86119	.85855	.85593	.85333	.85074	.84818	.84563
105	.87792	.87537	.87283	.87032	.86782	.86534	.86287	.86042	.85799	.85557
106	.88918	.88683	.88450	.88218	.87987	.87758	.87530	.87304	.87079	.86855
107	.90291	.90082	.89873	.89666	.89460	.89255	.89051	.88849	.88647	.88447
108	.92455	.92288	.92123	.91958	.91794	.91630	.91468	.91306	.91145	.90984
109	.96211	.96125	.96041	.95956	.95872	.95788	.95704	.95620	.95537	.95455

Age	10.2%	10.4%	10.6%	10.8%	11.0%	11.2%	11.4%	11.6%	11.8%	12.0%
0	.01488	.01463	.01439	.01417	.01396	.01377	.01359	.01343	.01327	.01312
1	.00662	.00636	.00612	.00589	.00568	.00548	.00530	.00513	.00497	.00482
2	.00654	.00626	.00600	.00576	.00554	.00533	.00514	.00496	.00479	.00463
3	.00670	.00641	.00613	.00588	.00564	.00542	.00522	.00502	.00484	.00468
4	.00699	.00668	.00639	.00612	.00587	.00563	.00542	.00521	.00502	.00484
5	.00739	.00706	.00675	.00646	.00620	.00595	.00571	.00550	.00529	.00510
6	.00786	.00751	.00718	.00687	.00659	.00633	.00608	.00585	.00563	.00543
7	.00841	.00803	.00769	.00736	.00706	.00678	.00652	.00627	.00604	.00582
8	.00902	.00863	.00826	.00791	.00759	.00730	.00702	.00675	.00651	.00628
9	.00973	.00931	.00892	.00856	.00822	.00790	.00760	.00733	.00706	.00682
10	.01055	.01010	.00969	.00930	.00894	.00861	.00829	.00799	.00772	.00746
11	.01146	.01099	.01055	.01014	.00976	.00940	.00907	.00875	.00846	.00818
12	.01246	.01196	.01150	.01106	.01066	.01028	.00993	.00960	.00928	.00899
13	.01351	.01298	.01249	.01204	.01161	.01121	.01084	.01049	.01016	.00985
14	.01455	.01400	.01348	.01300	.01255	.01213	.01173	.01136	.01102	.01069
15	.01555	.01497	.01443	.01392	.01345	.01300	.01259	.01220	.01183	.01148
16	.01648	.01587	.01530	.01477	.01427	.01380	.01336	.01295	.01257	.01220
17	.01737	.01673	.01612	.01556	.01504	.01455	.01408	.01365	.01324	.01286
18	.01822	.01754	.01691	.01632	.01576	.01525	.01476	.01430	.01387	.01347
19	.01908	.01837	.01770	.01708	.01650	.01595	.01544	.01495	.01450	.01407
20	.01999	.01924	.01854	.01788	.01726	.01669	.01615	.01564	.01516	.01471
21	.02096	.02017	.01943	.01874	.01809	.01748	.01691	.01637	.01586	.01539
22	.02197	.02114	.02036	.01963	.01895	.01830	.01770	.01713	.01660	.01610
23	.02306	.02218	.02136	.02059	.01987	.01919	.01855	.01795	.01739	.01686
24	.02424	.02331	.02245	.02163	.02087	.02016	.01948	.01885	.01825	.01769
25	.02552	.02455	.02364	.02278	.02197	.02122	.02051	.01984	.01920	.01861
26	.02692	.02589	.02493	.02403	.02318	.02238	.02162	.02091	.02025	.01961
27	.02846	.02738	.02636	.02541	.02451	.02367	.02287	.02212	.02141	.02074
28	.03012	.02898	.02791	.02690	.02595	.02506	.02422	.02342	.02267	.02196
29	.03190	.03070	.02957	.02851	.02751	.02656	.02567	.02483	.02404	.02329
30	.03381	.03254	.03135	.03023	.02917	.02817	.02723	.02634	.02551	.02471
31	.03583	.03450	.03324	.03206	.03094	.02989	.02890	.02796	.02707	.02623
32	.03799	.03659	.03527	.03402	.03284	.03173	.03068	.02968	.02874	.02785
33	.04031	.03883	.03744	.03612	.03488	.03371	.03260	.03155	.03055	.02961
34	.04279	.04123	.03976	.03838	.03707	.03583	.03465	.03354	.03249	.03149
35	.04545	.04382	.04227	.04081	.03943	.03812	.03688	.03571	.03459	.03354
36	.04830	.04658	.04495	.04341	.04196	.04058	.03927	.03803	.03685	.03573
37	.05134	.04953	.04782	.04620	.04467	.04321	.04183	.04052	.03928	.03809
38	.05462	.05272	.05092	.04921	.04760	.04606	.04461	.04322	.04191	.04066
39	.05812	.05613	.05424	.05245	.05075	.04913	.04760	.04614	.04475	.04343
40	.06190	.05981	.05782	.05594	.05415	.05245	.05083	.04929	.04783	.04643
41	.06597	.06378	.06170	.05972	.05784	.05605	.05435	.05272	.05118	.04970
42	.07035	.06806	.06587	.06380	.06182	.05994	.05815	.05644	.05481	.05326
43	.07505	.07265	.07036	.06818	.06611	.06414	.06225	.06045	.05874	.05710
44	.08008	.07757	.07518	.07290	.07072	.06865	.06667	.06478	.06298	.06125
45	.08542	.08279	.08029	.07791	.07563	.07346	.07138	.06940	.06750	.06569
46	.09108	.08834	.08573	.08324	.08085	.07858	.07640	.07432	.07233	.07043
47	.09705	.09419	.09147	.08886	.08637	.08399	.08172	.07954	.07745	.07545
48	.10335	.10038	.09754	.09482	.09222	.08973	.08735	.08507	.08288	.08078
49	.10999	.10690	.10394	.10111	.09840	.09581	.09332	.09093	.08864	.08644
50	.11701	.11380	.11073	.10778	.10496	.10225	.09965	.09716	.09477	.09247
51	.12441	.12108	.11789	.11482	.11189	.10907	.10636	.10376	.10126	.09886
52	.13217	.12871	.12540	.12222	.11916	.11623	.11341	.11071	.10810	.10560
53	.14028	.13670	.13327	.12997	.12680	.12375	.12082	.11801	.11529	.11268
54	.14875	.14505	.14150	.13808	.13480	.13163	.12859	.12566	.12284	.12012
55	.15760	.15378	.15011	.14657	.14317	.13989	.13674	.13370	.13077	.12794

Age	10.2%	10.4%	10.6%	10.8%	11.0%	11.2%	11.4%	11.6%	11.8%	12.0%
56	.16684	.16290	.15911	.15546	.15194	.14855	.14528	.14213	.13909	.13615
57	.17648	.17242	.16851	.16474	.16111	.15760	.15422	.15096	.14781	.14477
58	.18647	.18229	.17827	.17438	.17064	.16702	.16353	.16015	.15689	.15374
59	.19678	.19249	.18835	.18435	.18049	.17676	.17316	.16968	.16631	.16305
60	.20740	.20300	.19875	.19464	.19066	.18682	.18311	.17952	.17604	.17268
61	.21837	.21385	.20949	.20527	.20119	.19724	.19341	.18971	.18613	.18266
62	.22973	.22511	.22064	.21631	.21212	.20807	.20414	.20033	.19664	.19306
63	.24152	.23680	.23222	.22779	.22350	.21934	.21530	.21139	.20760	.20392
64	.25372	.24890	.24422	.23969	.23529	.23103	.22690	.22289	.21899	.21521
65	.26633	.26141	.25664	.25201	.24752	.24316	.23893	.23482	.23083	.22695
66	.27940	.27439	.26953	.26481	.26023	.25577	.25145	.24724	.24316	.23918
67	.29299	.28790	.28296	.27815	.27348	.26894	.26453	.26024	.25606	.25200
68	.30709	.30193	.29691	.29202	.28728	.28265	.27816	.27378	.26952	.26537
69	.32166	.31643	.31134	.30639	.30157	.29687	.29230	.28785	.28351	.27928
70	.33661	.33133	.32618	.32116	.31628	.31152	.30688	.30235	.29794	.29364
71	.35188	.34654	.34134	.33627	.33133	.32651	.32181	.31722	.31275	.30838
72	.36742	.36204	.35679	.35168	.34668	.34181	.33706	.33241	.32788	.32345
73	.38317	.37776	.37248	.36733	.36229	.35738	.35257	.34788	.34330	.33882
74	.39923	.39380	.38849	.38330	.37823	.37328	.36844	.36370	.35908	.35455
75	.41566	.41021	.40489	.39968	.39459	.38961	.38474	.37997	.37531	.37074
76	.43254	.42709	.42176	.41655	.41144	.40645	.40156	.39677	.39208	.38749
77	.44988	.44444	.43912	.43391	.42880	.42380	.41891	.41411	.40940	.40479
78	.46765	.46224	.45694	.45174	.44665	.44166	.43677	.43197	.42726	.42265
79	.48574	.48037	.47510	.46993	.46487	.45990	.45502	.45024	.44554	.44094
80	.50397	.49865	.49343	.48830	.48327	.47834	.47349	.46873	.46406	.45947
81	.52219	.51693	.51176	.50669	.50171	.49682	.49201	.48729	.48265	.47809
82	.54029	.53510	.53000	.52499	.52007	.51523	.51047	.50580	.50120	.49667
83	.55826	.55315	.54813	.54319	.53834	.53356	.52886	.52424	.51969	.51522
84	.57624	.57123	.56629	.56144	.55666	.55195	.54732	.54277	.53828	.53386
85	.59435	.58944	.58460	.57984	.57516	.57054	.56599	.56151	.55710	.55275
86	.61241	.60762	.60289	.59824	.59365	.58913	.58468	.58029	.57596	.57170
87	.63015	.62548	.62087	.61633	.61185	.60744	.60309	.59880	.59456	.59039
88	.64753	.64299	.63851	.63409	.62973	.62543	.62118	.61700	.61287	.60879
89	.66454	.66013	.65579	.65150	.64726	.64308	.63895	.63488	.63086	.62689
90	.68115	.67689	.67268	.66853	.66442	.66037	.65637	.65241	.64851	.64465
91	.69706	.69294	.68887	.68486	.68089	.67696	.67309	.66925	.66547	.66173
92	.71190	.70792	.70399	.70011	.69627	.69247	.68872	.68501	.68134	.67771
93	.72569	.72184	.71804	.71429	.71057	.70689	.70326	.69967	.69611	.69259
94	.73861	.73490	.73123	.72759	.72400	.72044	.71692	.71344	.71000	.70659
95	.75097	.74739	.74384	.74033	.73686	.73342	.73002	.72665	.72331	.72001
96	.76267	.75922	.75579	.75240	.74905	.74572	.74243	.73917	.73595	.73275
97	.77356	.77022	.76691	.76363	.76039	.75718	.75399	.75084	.74772	.74463
98	.78382	.78059	.77740	.77423	.77110	.76799	.76491	.76186	.75884	.75584
99	.79390	.79079	.78771	.78465	.78162	.77862	.77565	.77270	.76978	.76688
100	.80376	.80076	.79779	.79485	.79193	.78904	.78617	.78333	.78051	.77771
101	.81353	.81066	.80780	.80497	.80217	.79938	.79662	.79388	.79117	.78847
102	.82318	.82042	.81768	.81496	.81227	.80960	.80694	.80431	.80170	.79911
103	.83278	.83014	.82752	.82491	.82233	.81977	.81723	.81470	.81220	.80971
104	.84310	.84059	.83810	.83563	.83317	.83073	.82831	.82591	.82352	.82115
105	.85318	.85079	.84843	.84607	.84374	.84142	.83911	.83682	.83455	.83229
106	.86633	.86413	.86193	.85975	.85758	.85543	.85329	.85116	.84904	.84694
107	.88247	.88049	.87852	.87656	.87460	.87266	.87073	.86881	.86690	.86500
108	.90825	.90666	.90507	.90350	.90193	.90037	.89881	.89727	.89572	.89419
109	.95372	.95290	.95208	.95126	.95045	.94964	.94883	.94803	.94723	.94643

Age	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
0	.01298	.01285	.01273	.01261	.01250	.01240	.01230	.01221	.01212	.01203
1	.00468	.00455	.00443	.00431	.00420	.00410	.00400	.00391	.00382	.00374
2	.00448	.00435	.00421	.00409	.00398	.00387	.00376	.00366	.00357	.00348
3	.00452	.00437	.00423	.00410	.00398	.00386	.00375	.00365	.00355	.00345
4	.00468	.00452	.00437	.00423	.00410	.00397	.00386	.00375	.00364	.00354
5	.00493	.00476	.00460	.00445	.00431	.00418	.00405	.00393	.00382	.00371
6	.00524	.00506	.00489	.00473	.00458	.00444	.00430	.00418	.00406	.00394
7	.00562	.00543	.00525	.00508	.00492	.00477	.00462	.00449	.00436	.00423
8	.00606	.00586	.00566	.00548	.00531	.00515	.00499	.00485	.00471	.00458
9	.00659	.00637	.00616	.00597	.00579	.00561	.00545	.00529	.00514	.00500
10	.00721	.00698	.00676	.00655	.00636	.00617	.00600	.00583	.00567	.00552
11	.00792	.00767	.00744	.00722	.00701	.00682	.00663	.00645	.00628	.00612
12	.00871	.00845	.00821	.00797	.00775	.00754	.00735	.00716	.00698	.00681
13	.00955	.00928	.00902	.00877	.00854	.00831	.00810	.00790	.00771	.00753
14	.01038	.01009	.00981	.00955	.00930	.00907	.00885	.00864	.00843	.00824
15	.01116	.01085	.01056	.01028	.01002	.00977	.00954	.00932	.00910	.00890
16	.01186	.01153	.01123	.01094	.01066	.01040	.01015	.00992	.00969	.00948

Age	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
17	.01250	.01215	.01183	.01152	.01124	.01096	.01070	.01045	.01022	.00999
18	.01308	.01272	.01238	.01206	.01175	.01147	.01119	.01093	.01068	.01044
19	.01367	.01329	.01293	.01259	.01227	.01196	.01167	.01140	.01113	.01088
20	.01428	.01388	.01350	.01314	.01280	.01248	.01217	.01188	.01161	.01134
21	.01494	.01451	.01411	.01373	.01337	.01303	.01271	.01240	.01211	.01183
22	.01562	.01517	.01475	.01435	.01397	.01361	.01326	.01294	.01263	.01233
23	.01635	.01588	.01543	.01501	.01460	.01422	.01386	.01351	.01319	.01287
24	.01716	.01665	.01618	.01573	.01530	.01489	.01451	.01415	.01380	.01347
25	.01804	.01751	.01701	.01653	.01608	.01565	.01524	.01485	.01448	.01413
26	.01902	.01845	.01792	.01741	.01693	.01648	.01604	.01563	.01524	.01487
27	.02011	.01951	.01895	.01841	.01790	.01742	.01696	.01652	.01610	.01571
28	.02129	.02066	.02006	.01949	.01895	.01844	.01795	.01748	.01704	.01662
29	.02258	.02191	.02127	.02067	.02009	.01955	.01903	.01853	.01806	.01762
30	.02396	.02325	.02257	.02193	.02132	.02074	.02019	.01966	.01916	.01869
31	.02543	.02467	.02396	.02328	.02263	.02201	.02143	.02087	.02034	.01983
32	.02701	.02621	.02545	.02472	.02404	.02338	.02276	.02217	.02160	.02106
33	.02871	.02786	.02706	.02629	.02556	.02487	.02420	.02357	.02297	.02240
34	.03054	.02964	.02879	.02797	.02720	.02646	.02576	.02509	.02445	.02383
35	.03253	.03158	.03067	.02981	.02898	.02820	.02745	.02674	.02606	.02541
36	.03467	.03366	.03269	.03178	.03090	.03007	.02928	.02852	.02779	.02710
37	.03697	.03590	.03488	.03391	.03298	.03209	.03125	.03044	.02967	.02893
38	.03947	.03833	.03725	.03622	.03524	.03430	.03340	.03254	.03172	.03094
39	.04217	.04096	.03982	.03873	.03768	.03669	.03573	.03482	.03395	.03312
40	.04510	.04383	.04262	.04146	.04035	.03930	.03828	.03732	.03639	.03550
41	.04830	.04695	.04567	.04445	.04327	.04215	.04108	.04005	.03907	.03812
42	.05177	.05035	.04900	.04770	.04646	.04527	.04413	.04304	.04200	.04100
43	.05553	.05404	.05261	.05123	.04992	.04866	.04746	.04630	.04520	.04413
44	.05960	.05802	.05651	.05506	.05368	.05235	.05107	.04985	.04867	.04754
45	.06395	.06229	.06069	.05917	.05770	.05630	.05495	.05365	.05241	.05121
46	.06860	.06685	.06517	.06356	.06202	.06053	.05911	.05774	.05643	.05516
47	.07353	.07169	.06992	.06823	.06660	.06504	.06353	.06209	.06070	.05936
48	.07877	.07684	.07498	.07320	.07149	.06984	.06826	.06673	.06527	.06385
49	.08433	.08231	.08036	.07849	.07669	.07495	.07329	.07168	.07013	.06864
50	.09026	.08814	.08609	.08413	.08224	.08042	.07867	.07698	.07535	.07378
51	.09655	.09433	.09219	.09013	.08815	.08624	.08440	.08262	.08091	.07926
52	.10318	.10086	.09863	.09647	.09439	.09239	.09046	.08860	.08680	.08506
53	.11017	.10774	.10541	.10315	.10098	.09888	.09686	.09491	.09302	.09120
54	.11750	.11498	.11254	.11019	.10792	.10572	.10361	.10156	.09958	.09767
55	.12522	.12258	.12005	.11759	.11522	.11294	.11072	.10859	.10652	.10451
56	.13332	.13059	.12794	.12539	.12292	.12054	.11823	.11599	.11383	.11174
57	.14183	.13899	.13624	.13359	.13102	.12853	.12613	.12380	.12154	.11936
58	.15070	.14775	.14490	.14215	.13948	.13689	.13439	.13197	.12962	.12734
59	.15990	.15685	.15389	.15103	.14826	.14558	.14298	.14046	.13801	.13564
60	.16942	.16626	.16321	.16024	.15737	.15459	.15189	.14927	.14673	.14426
61	.17929	.17603	.17287	.16981	.16684	.16395	.16115	.15844	.15580	.15324
62	.18960	.18623	.18297	.17980	.17673	.17375	.17085	.16803	.16530	.16264
63	.20035	.19688	.19352	.19025	.18708	.18400	.18100	.17809	.17525	.17250
64	.21154	.20797	.20451	.20114	.19787	.19469	.19159	.18859	.18566	.18281
65	.22318	.21951	.21595	.21249	.20912	.20584	.20265	.19955	.19652	.19358
66	.23532	.23156	.22790	.22434	.22088	.21751	.21422	.21102	.20791	.20487
67	.24804	.24419	.24044	.23679	.23324	.22977	.22640	.22311	.21990	.21678
68	.26133	.25740	.25356	.24983	.24618	.24263	.23917	.23579	.23250	.22929
69	.27516	.27114	.26723	.26341	.25969	.25605	.25251	.24905	.24567	.24237
70	.28945	.28536	.28137	.27747	.27367	.26996	.26633	.26279	.25934	.25596
71	.30412	.29996	.29590	.29193	.28806	.28427	.28057	.27696	.27343	.26998
72	.31913	.31491	.31078	.30675	.30281	.29895	.29519	.29150	.28790	.28438
73	.33444	.33016	.32597	.32188	.31788	.31396	.31013	.30638	.30271	.29913
74	.35012	.34579	.34155	.33741	.33335	.32938	.32549	.32168	.31795	.31430
75	.36628	.36190	.35762	.35343	.34932	.34530	.34136	.33750	.33372	.33001
76	.38299	.37858	.37427	.37004	.36589	.36183	.35784	.35394	.35011	.34636
77	.40028	.39585	.39151	.38725	.38307	.37898	.37496	.37103	.36716	.36337
78	.41812	.41368	.40933	.40506	.40086	.39675	.39271	.38874	.38485	.38103
79	.43641	.43198	.42762	.42334	.41914	.41502	.41096	.40698	.40308	.39924
80	.45496	.45054	.44619	.44192	.43772	.43360	.42954	.42556	.42164	.41779
81	.47360	.46920	.46487	.46061	.45643	.45231	.44827	.44429	.44038	.43653
82	.49223	.48785	.48355	.47932	.47516	.47106	.46703	.46307	.45916	.45532
83	.51081	.50648	.50221	.49802	.49388	.48982	.48581	.48187	.47799	.47416
84	.52951	.52523	.52101	.51686	.51277	.50874	.50477	.50086	.49701	.49321
85	.54847	.54425	.54009	.53600	.53196	.52798	.52406	.52019	.51638	.51262
86	.56749	.56335	.55926	.55523	.55126	.54734	.54348	.53966	.53591	.53220
87	.58627	.58221	.57820	.57425	.57035	.56650	.56270	.55895	.55526	.55161
88	.60477	.60079	.59688	.59301	.58919	.58542	.58170	.57802	.57439	.57081
89	.62297	.61909	.61527	.61149	.60776	.60408	.60044	.59685	.59330	.58979
90	.64084	.63707	.63335	.62968	.62604	.62246	.61891	.61540	.61194	.60851

Age	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
91	.65803	.65437	.65076	.64719	.64366	.64017	.63672	.63330	.62993	.62659
92	.67412	.67058	.66707	.66360	.66017	.65678	.65342	.65010	.64682	.64357
93	.68911	.68567	.68227	.67890	.67557	.67227	.66901	.66578	.66258	.65942
94	.70321	.69988	.69657	.69330	.69006	.68686	.68369	.68055	.67744	.67437
95	.71674	.71351	.71031	.70713	.70399	.70088	.69781	.69476	.69174	.68875
96	.72959	.72646	.72335	.72028	.71724	.71422	.71123	.70828	.70534	.70244
97	.74156	.73853	.73552	.73254	.72959	.72666	.72376	.72089	.71804	.71522
98	.75287	.74993	.74702	.74413	.74126	.73842	.73561	.73282	.73006	.72732
99	.76401	.76117	.75834	.75555	.75277	.75002	.74730	.74459	.74191	.73926
100	.77494	.77219	.76946	.76676	.76408	.76142	.75878	.75616	.75357	.75099
101	.78580	.78315	.78052	.77791	.77532	.77275	.77021	.76768	.76517	.76268
102	.79654	.79399	.79146	.78894	.78645	.78397	.78152	.77908	.77666	.77426
103	.80724	.80479	.80236	.79994	.79755	.79517	.79280	.79046	.78813	.78582
104	.81879	.81646	.81413	.81183	.80954	.80726	.80501	.80276	.80054	.79832
105	.83005	.82782	.82560	.82340	.82121	.81904	.81688	.81474	.81260	.81049
106	.84485	.84277	.84071	.83866	.83662	.83459	.83257	.83057	.82857	.82659
107	.86311	.86124	.85937	.85751	.85566	.85382	.85199	.85017	.84835	.84655
108	.89266	.89114	.88963	.88812	.88662	.88513	.88364	.88216	.88068	.87922
109	.94563	.94484	.94405	.94326	.94248	.94170	.94092	.94014	.93937	.93860

(f) Effective dates. This section applies after April 30, 1999.

PAR. 6. Immediately following § 1.643(d)-2, the undesignated centerheading is revised to read as follows:

POOLED INCOME FUND ACTUARIAL TABLES APPLICABLE BEFORE MAY 1, 1999

PAR. 7. Section 1.642(c)-6A is amended by:

1. Revising the section heading.

2. Amending newly designated paragraph (e) as follows:

a. Paragraph (e) heading is revised.

b. Paragraph (e)(1), first sentence is revised.

c. Paragraph (e)(2)(ii) is revised.

d. Paragraph (e)(3) is revised.

e. Paragraph (e)(4) is revised.

f. Paragraph (e)(5) introductory text is revised.

g. Paragraph (e)(5), the heading for Table S is revised.

The revisions read as follows:

§ 1.642(c)-6A Valuation of charitable remainder interests for which the valuation date is before May 1, 1999.

* * * * *

(e) *Present value of the remainder interest in the case of transfers to pooled income funds for which the valuation date is after April 30, 1989, and before May 1, 1999—(1) In general.* In the case of transfers to pooled income funds for which the valuation date is after April 30, 1989, and before May 1, 1999, the present value of a remainder interest is determined under this section. * * *

(2) * * *

(ii) Discount at a rate of interest, compounded annually, equal to the highest yearly rate of return of the pooled income fund for the 3 taxable years immediately preceding its taxable year in which the transfer of property to the fund is made. The provisions of § 1.642(c)-6(c) apply for determining the yearly rate of return. However, where the taxable year is less than 12 months, the provisions of § 1.642(c)-6T(e)(3)(ii) apply for the determining the yearly rate of return.

(3) *Pooled income funds in existence less than 3 taxable years.* The provisions of § 1.642(c)-6T(e)(4) apply for determining the highest yearly rate of return when the pooled income fund has been in existence less than three taxable years.

(4) *Computation of value of remainder interest.* The factor that is used in determining the present value of a remainder interest that is dependent on the termination of the life of one individual is the factor from Table S in paragraph (e)(5) of this section under the appropriate yearly rate of return opposite the number that corresponds to the age of the individual upon whose life the value of the remainder interest is based. Table S in paragraph (e)(5) of this section includes factors for yearly rates of return from 4.2 to 14 percent. Many actuarial factors not contained in Table S in paragraph (e)(5) of this section are contained in Table S in Internal Revenue Service Publication 1457, ''Actuarial Values, Alpha Volume,'' (8–89). Publication 1457 is no longer available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. However, pertinent factors in this publication may be obtained by a written request to: CC:DOM:CORP:R (IRS Publication 1457), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. For other situations, see § 1.642(c)-6(b). If the yearly rate of return is a percentage that is between the yearly rates of return for which factors are provided, a linear interpolation must be made. The present value of the remainder interest is determined by multiplying the fair market value of the property on the valuation date by the appropriate remainder factor. For an example of a computation of the present value of a remainder interest requiring a linear interpolation adjustment, see § 1.642(c)-6T(e)(5).

(5) *Actuarial tables.* In the case of transfers for which the valuation date is after April 30, 1989, and before May 1, 1999, the present value of a remainder interest dependent on the termination of one life in the case of a transfer to a pooled income fund is determined by use of the following tables:

TABLE S.—BASED ON LIFE TABLE 80CNSMT SINGLE LIFE REMAINDER FACTORS

[Applicable After April 30, 1989, and Before May 1, 1999]

* * * * *

PAR. 8. Section 1.664–4 is amended as follows:

1. Paragraph (a)(1) is revised.

2. Paragraph (d) is removed.

3. Paragraphs (e) heading, (e)(1) through (e)(5), and (e)(6) heading, introductory text , and Table U(1) are redesignated as § 1.664–4A(e) heading, (e)(1) through (e)(5) and (e)(6) heading, introductory text, and Table U(1), respectively.

4. New paragraphs (d) through (e)(5) are added.

5. New paragraph heading and introductory text are added to remaining paragraph (e)(6) preceding Table D.

6. Paragraph (f) is revised.

The additions and revision read as follows:

§ 1.664–4 Calculation of the fair market value of the remainder interest in a charitable remainder unitrust.

(a) * * *

(1) [Reserved]. For further guidance, see § 1.664–4T(a)(1).

* * * * *

(d) through (e)(5) [Reserved]. For further guidance, see § 1.664–4T(d) through (e)(5).

(6) *Actuarial Table D and F (4.2 through 14.0) for transfers for which the valuation date is after April 30, 1989.* For transfers for which the valuation date is after April 30, 1989, the present value of a charitable remainder unitrust interest that is dependent upon a term of years is determined by using the section 7520 rate and the tables in this paragraph (e)(6). For transfers for which the valuation date is after April 30, 1999, where the present value of a charitable remainder unitrust interest is dependent on the termination of a life interest , see § 1.664–4T(e)(7). See, however, § 1.7520–3(b) (relating to exceptions to the use of prescribed tables under certain circumstances). Many actuarial factors not contained in the following tables are contained in Internal Revenue Service Publication 1458, ''Actuarial Values, Book Beth,'' (1999). A copy of this publication is available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402.

* * * * *

(f) *Effective dates.* This section applies after April 30, 1989, and before May 1, 1999.

Par. 9. Section 1.664–4T is added to read as follows:

§ 1.664–4T Calculation of the fair market value of the remainder interest in a charitable remainder unitrust (temporary).

(a) [Reserved] For further guidance, see § 1.664–4(a).

(1) Life contingencies determined as to each life involved, from the values of *lx* set forth in Table 90CM contained in § 20.2031–7T(d)(7) of this chapter (Estate Tax Regulations) in the case of transfers for which the valuation date is after April 30, 1999; or from Table 80CNSMT contained § 20.2031–7A(e)(4) of this chapter in the case of transfer for which the valuation date is after April 30, 1989, and before May 1, 1999. See § 20.2031–7A(a) through (d) of this chapter, whichever is applicable, for transfers for which the valuation date is before May 1, 1989;

(a)(2) through (c) [Reserved] For further guidance, see § 1.664–4(a)(2) through (c).

(d) *Valuation.* The fair market value of a remainder interest in a charitable remainder unitrust (as described in § 1.664–3) for transfers for which the valuation date is after April 30, 1999, is its present value determined under paragraph (e) of this section. The fair market value of a remainder interest in a charitable remainder unitrust (as described in § 1.664–3) for transfers for which the valuation date is before May 1, 1999, is its present value determined under the following sections:

Valuation dates		Applicable regulations
After	Before	
	01–01–52	1.664–4A(a).
12–31–51 ...	01–01–71	1.664–4A(b).
12–31–70 ...	12–01–83	1.664–4A(c).
11–30–83 ...	05–01–89	1.664–4A(d).
04–30–89 ...	05–01–99	1.664–4A(e).

(e) *Valuation of charitable remainder unitrusts having certain payout sequences for transfers for which the valuation date is after April 30, 1999*—(1) *In general.* Except as otherwise provided in paragraph (e)(2) of this section, in the case of transfers for which the valuation date is after April 30, 1999, the present value of a remainder interest is determined under paragraphs (e)(3) through (e)(6) of this section, provided that the amount of the payout as of any payout date during any taxable year of the trust is not larger than the amount that the trust could distribute on such date under § 1.664–3(a)(1)(v) if the taxable year of the trust were to end on such date. See, however, § 1.7520–3(b) (relating to exceptions to the use of the prescribed tables under certain circumstances).

(2) *Transitional rules for valuation of charitable remainder unitrusts.* (i) For purposes of sections 2055, 2106, or 2624, if on May 1, 1999, the decedent was mentally incompetent so that the disposition of the property could not be changed, and the decedent died after April 30, 1999, without having regained competency to dispose of the decedent's property, or the decedent died within 90 days of the date that the decedent first regained competency after April 30, 1999, the present value of a remainder interest under this section is determined as if the valuation date with respect to the decedent's gross estate is either before May 1, 1999, or after April 30, 1999, at the option of the decedent's executor.

(ii) For purposes of sections 170, 2055, 2106, 2522, or 2624, in the case of transfers to a charitable remainder unitrust for which the valuation date is after April 30, 1999, and before July 1, 1999, the present value of a remainder interest based on one or more measuring lives is determined under this section by use of the section 7520 interest rate for the month in which the valuation date occurs (See §§ 1.7520–1(b) and 1.7520–2(a)(2)) and the appropriate actuarial tables under either paragraph (e)(7) of this section or § 1.664–4A(e)(6), at the option of the donor or the decedent's executor, as the case may be.

(iii) For purposes of paragraphs (e)(2)(i) and (ii) of this section, where the donor or decedent's executor is given the option to use the appropriate actuarial tables under either paragraph (e)(7) of this section or § 1.664–4A(e)(6), the donor or decedent's executor must use the same actuarial table with respect to each individual transaction and with respect to all transfers occurring on the valuation date (e.g., gift and income tax charitable deductions with respect to the same transfer must be determined based on the same tables, and all assets includible in the gross estate and/or estate tax deductions claimed must be valued based on the same tables).

(3) *Adjusted payout rate.* For transfers for which the valuation date is after April 30, 1989, the adjusted payout rate is determined by using the appropriate Table F in § 1.664–4(e)(6), for the section 7520 interest rate applicable to the transfer. If the interest rate is between 4.2 and 14 percent, see § 1.664–4(e)(6). If the interest rate is below 4.2 percent or greater than 14 percent, see § 1.664–4(b). The adjusted payout rate is determined by multiplying the fixed percentage described in § 1.664–3(a)(1)(i)(*a*) by the factor describing the payout sequence of the trust and the number of months by which the valuation date for the first full taxable year of the trust precedes the first payout date for such taxable year. If the governing instrument does not prescribe when the distribution or distributions shall be made during the taxable year of the trust, see § 1.664–4(a). In the case of a trust having a payout sequence for which no figures have been provided by the appropriate table, and in the case of a trust that determines the fair market value of the trust assets by taking the average of valuations on more than one date during the taxable year, see § 1.664–4(b).

(4) *Period is a term of years.* If the period described in § 1.664–3(a)(5) is a term of years, the factor that is used in determining the present value of the remainder interest for transfers for which the valuation date is after November 30, 1983, is the factor under the appropriate adjusted payout rate in Table D of § 1.664–4(e)(6) corresponding to the number of years in the term. If the adjusted payout rate is an amount that is between adjusted payout rates for which factors are provided in Table D,

a linear interpolation must be made. The present value of the remainder interest is determined by multiplying the net fair market value (as of the appropriate valuation date) of the property placed in trust by the factor determined under this paragraph. For purposes of this section, the valuation date is, in the case of an inter vivos transfer, the date on which the property is transferred to the trust by the donor. However, if an election is made under section 7520 and § 1.7520–2(b) to compute the present value of the charitable interest by use of the interest rate component for either of the 2 months preceding the month in which the date of transfer falls, the month so elected is the valuation date for purposes of determining the interest rate and mortality tables. In the case of a testamentary transfer under section 2055, 2106, or 2624, the valuation date is the date of death, unless the alternate valuation date is elected under section 2032, in which event, and within the limitations set forth in section 2032 and the regulations thereunder, the valuation date is the alternate valuation date. If the decedent's estate elects the alternate valuation date under section 2032 and also elects, under section 7520 and § 1.7520–2(b), to use the interest rate component for one of the 2 months preceding the alternate valuation date, the month so elected is the valuation date for purposes of determining the interest rate and mortality tables. The application of this paragraph (e)(4) may be illustrated by the following example:

Example. D transfers $100,000 to a charitable remainder unitrust on January 1. The trust instrument requires that the trust pay 8 percent of the fair market value of the trust assets as of January 1st for a term of 12 years to D in quarterly payments (March 31, June 30, September 30, and December 31). The section 7520 rate for January (the month that the transfer occurred) is 9.6 percent. Under Table F(9.6) in § 1.664–4(e)(6), the appropriate adjustment factor is .944628 for quarterly payments payable at the end of each quarter. The adjusted payout rate is 7.557 (8% X .944628). Based on the remainder factors in Table D in § 1.664–4(e)(6), the present value of the remainder interest is $38,950.30, computed as follows:

Factor at 7.4 percent for 12 years	.397495
Factor at 7.6 percent for 12 years	.387314
Difference	.010181

Interpolation adjustment:

$$\frac{7.557\% - 7.4\%}{0.2\%} = \frac{\times}{.010181}$$

$$\times = .007992$$

Factor at 7.4 percent for 12 years	.397495
Less: Interpolation adjustment	.007992
Interpolated factor	.389503
Present value of remainder interest: ($100,000 X .389503)	$38,950.30

(5) *Period is the life of one individual.* If the period described in § 1.664–3(a)(5) is the life of one individual, the factor that is used in determining the present value of the remainder interest for transfers for which the valuation date is after April 30, 1999, is the factor in Table U(1) in paragraph (e)(7) of this section under the appropriate adjusted payout. For purposes of the computations described in this paragraph, the age of an individual is the age of that individual at the individual's nearest birthday. If the adjusted payout rate is an amount that is between adjusted payout rates for which factors are provided in the appropriate table, a linear interpolation must be made. The present value of the remainder interest is determined by multiplying the net fair market value (as of the valuation date as determined in paragraph (e)(4) of this section) of the property placed in trust by the factor determined under this paragraph (e)(5). If the adjusted payout rate is between 4.2 and 14 percent, see paragraph (e)(7) of this section. If the adjusted payout rate is below 4.2 percent or greater than 14 percent, see § 1.664–4(b). The application of this paragraph (e)(5) may be illustrated by the following example:

Example. A, who is 44 years and 11 months old, transfers $100,000 to a charitable remainder unitrust on January 1st. The trust instrument requires that the trust pay to A semiannually (on June 30 and December 31) 9 percent of the fair market value of the trust assets as of January 1st during A's life. The section 7520 rate for January is 9.6 percent. Under Table F(9.6) in § 1.664–4(e)(6), the appropriate adjustment factor is .933805 for semiannual payments payable at the end of the semiannual period. The adjusted payout rate is 8.404 (9% X .933805). Based on the remainder factors in Table U(1) in this section, the present value of the remainder interest is $10,109.00, computed as follows:

Factor at 8.4 percent at age 45	.10117
Factor at 8.6 percent at age 45	.09715
Difference	.00402

Interpolation adjustment:

$$\frac{8.404\% - 8.4\%}{0.2\%} = \frac{\times}{.00402}$$

$$\times = .00008$$

Factor at 8.4 percent at age 45	.10117
Less: Interpolation adjustment	.00008
Interpolated Factor	.10109
Present value of remainder interest: ($100,000 X .10109)	$10,109.00

(6) [Reserved].

(7) *Actuarial Table U(1) for transfers for which the valuation date is after April 30, 1999.* For transfers for which the valuation date is after April 30, 1999, the present value of a charitable remainder unitrust interest that is dependent on a term of years or the termination of a life interest is determined by using the section 7520 rate, Table U(1) in this paragraph (e)(7), and Table D and Table F(4.2) through (14.0) in § 1.664–4(e)(6). See, however, § 1.7520–3(b) (relating to exceptions to the use of prescribed tables under certain circumstances). Many actuarial factors not contained in the following tables are contained in Internal Revenue Service Publication 1458, ''Actuarial Values, Book Beth,'' (1999). A copy of this publication is available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402.

TABLE U(1).—UNITRUST SINGLE LIFE REMAINDER FACTORS APPLICABLE FOR TRANSFERS AFTER APRIL 30, 1999 BASED ON LIFE TABLE 90CM

[Adjusted payout rate]

Age	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
0	.06177	.05580	.05061	.04609	.04215	.03871	.03570	.03307	.03075	.02872
1	.05543	.04925	.04388	.03919	.03509	.03151	.02838	.02563	.02321	.02109
2	.05716	.05081	.04528	.04045	.03622	.03252	.02927	.02642	.02391	.02170
3	.05920	.05268	.04699	.04201	.03765	.03382	.03046	.02750	.02490	.02260
4	.06143	.05475	.04889	.04376	.03926	.03530	.03182	.02876	.02605	.02366
5	.06384	.05697	.05095	.04567	.04103	.03694	.03334	.03016	.02735	.02487
6	.06637	.05933	.05315	.04771	.04292	.03870	.03497	.03168	.02876	.02618

Age	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
7	.06905	.06183	.05547	.04987	.04494	.04058	.03673	.03332	.03029	.02761
8	.07186	.06445	.05792	.05216	.04708	.04258	.03859	.03506	.03192	.02914
9	.07482	.06722	.06052	.05460	.04936	.04471	.04060	.03694	.03369	.03079
10	.07793	.07015	.06327	.05718	.05179	.04700	.04274	.03896	.03559	.03259
11	.08120	.07323	.06617	.05991	.05435	.04942	.04502	.04111	.03762	.03450
12	.08461	.07645	.06920	.06277	.05706	.05197	.04744	.04339	.03978	.03655
13	.08812	.07976	.07234	.06574	.05985	.05461	.04993	.04576	.04202	.03867
14	.09168	.08313	.07552	.06874	.06269	.05729	.05247	.04815	.04428	.04081
15	.09527	.08652	.07872	.07176	.06554	.05999	.05501	.05055	.04655	.04296
16	.09886	.08991	.08192	.07478	.06839	.06267	.05754	.05294	.04880	.04508
17	.10249	.09334	.08515	.07782	.07126	.06537	.06008	.05533	.05105	.04720
18	.10616	.09680	.08842	.08090	.07415	.06809	.06264	.05774	.05332	.04933
19	.10994	.10037	.09178	.08407	.07714	.07091	.06529	.06023	.05566	.05153
20	.11384	.10406	.09527	.08737	.08025	.07383	.06805	.06283	.05811	.05384
21	.11790	.10790	.09891	.09080	.08349	.07690	.07094	.06555	.06068	.05626
22	.12208	.11188	.10267	.09436	.08686	.08008	.07395	.06839	.06336	.05879
23	.12643	.11601	.10659	.09808	.09038	.08342	.07710	.07138	.06618	.06146
24	.13095	.12031	.11069	.10197	.09408	.08692	.08042	.07452	.06915	.06427
25	.13567	.12481	.11497	.10605	.09795	.09060	.08392	.07784	.07230	.06726
26	.14058	.12950	.11945	.11032	.10202	.09447	.08760	.08134	.07563	.07042
27	.14571	.13442	.12415	.11481	.10631	.09856	.09149	.08505	.07916	.07379
28	.15104	.13953	.12904	.11949	.11078	.10284	.09558	.08895	.08288	.07733
29	.15656	.14484	.13414	.12438	.11546	.10731	.09986	.09304	.08679	.08106
30	.16229	.15034	.13943	.12946	.12034	.11198	.10433	.09732	.09089	.08498
31	.16821	.15605	.14493	.13474	.12541	.11685	.10900	.10179	.09517	.08909
32	.17433	.16196	.15063	.14023	.13069	.12193	.11387	.10647	.09966	.09339
33	.18068	.16810	.15655	.14595	.13620	.12723	.11897	.11137	.10437	.09791
34	.18724	.17446	.16270	.15189	.14193	.13275	.12430	.11650	.10930	.10265
35	.19405	.18107	.16910	.15808	.14791	.13853	.12987	.12187	.11448	.10764
36	.20109	.18791	.17574	.16451	.15414	.14456	.13569	.12749	.11990	.11287
37	.20838	.19500	.18263	.17120	.16062	.15083	.14177	.13337	.12558	.11835
38	.21593	.20236	.18979	.17816	.16739	.15739	.14813	.13953	.13154	.12412
39	.22374	.20998	.19723	.18540	.17443	.16423	.15477	.14597	.13779	.13017
40	.23183	.21789	.20496	.19294	.18177	.17138	.16172	.15272	.14434	.13653
41	.24021	.22611	.21299	.20079	.18943	.17885	.16899	.15980	.15123	.14322
42	.24889	.23463	.22134	.20896	.19741	.18665	.17660	.16721	.15845	.15025
43	.25786	.24344	.23000	.21744	.20572	.19477	.18453	.17496	.16601	.15762
44	.26712	.25257	.23896	.22625	.21435	.20322	.19281	.18305	.17391	.16534
45	.27665	.26196	.24821	.23534	.22328	.21198	.20139	.19145	.18213	.17338
46	.28644	.27163	.25774	.24472	.23251	.22105	.21028	.20018	.19068	.18174
47	.29647	.28155	.26754	.25438	.24201	.23040	.21947	.20919	.19952	.19041
48	.30676	.29173	.27760	.26431	.25181	.24004	.22896	.21852	.20868	.19941
49	.31729	.30217	.28794	.27453	.26190	.24999	.23876	.22817	.21817	.20873
50	.32808	.31289	.29856	.28505	.27229	.26026	.24889	.23814	.22799	.21839
51	.33912	.32387	.30946	.29585	.28299	.27083	.25933	.24845	.23815	.22840
52	.35038	.33507	.32060	.30691	.29395	.28168	.27005	.25904	.24861	.23872
53	.36185	.34651	.33198	.31821	.30517	.29280	.28106	.26993	.25937	.24934
54	.37352	.35815	.34358	.32976	.31664	.30418	.29234	.28110	.27042	.26026
55	.38539	.37002	.35542	.34155	.32836	.31583	.30390	.29256	.28177	.27149
56	.39746	.38209	.36748	.35358	.34034	.32774	.31574	.30431	.29342	.28303
57	.40971	.39437	.37976	.36584	.35257	.33992	.32785	.31634	.30536	.29488
58	.42212	.40682	.39222	.37829	.36500	.35231	.34019	.32862	.31756	.30699
59	.43464	.41939	.40482	.39090	.37759	.36488	.35272	.34109	.32996	.31932
60	.44726	.43207	.41754	.40364	.39034	.37761	.36542	.35375	.34257	.33186
61	.45999	.44488	.43041	.41655	.40326	.39053	.37833	.36662	.35540	.34463
62	.47286	.45785	.44345	.42964	.41639	.40367	.39146	.37974	.36848	.35767
63	.48589	.47098	.45667	.44293	.42972	.41703	.40484	.39311	.38184	.37100
64	.49903	.48426	.47005	.45638	.44324	.43060	.41843	.40671	.39544	.38458
65	.51229	.49766	.48357	.47001	.45694	.44435	.43223	.42054	.40927	.39841
66	.52568	.51121	.49726	.48381	.47084	.45833	.44626	.43461	.42337	.41252
67	.53924	.52495	.51115	.49784	.48498	.47256	.46056	.44898	.43778	.42696
68	.55293	.53883	.52521	.51205	.49932	.48701	.47511	.46360	.45246	.44169
69	.56671	.55283	.53940	.52640	.51382	.50165	.48985	.47844	.46738	.45666
70	.58052	.56687	.55365	.54084	.52843	.51639	.50473	.49342	.48245	.47181
71	.59431	.58091	.56791	.55529	.54306	.53118	.51966	.50847	.49761	.48707
72	.60804	.59490	.58213	.56973	.55768	.54598	.53461	.52357	.51283	.50239
73	.62168	.60881	.59629	.58411	.57227	.56076	.54955	.53866	.52806	.51774
74	.63528	.62268	.61042	.59848	.58686	.57555	.56453	.55380	.54335	.53316
75	.64887	.63657	.62458	.61290	.60151	.59041	.57959	.56904	.55875	.54872
76	.66249	.65049	.63880	.62739	.61625	.60538	.59478	.58443	.57432	.56446
77	.67612	.66446	.65307	.64194	.63108	.62046	.61009	.59995	.59005	.58037
78	.68975	.67843	.66736	.65654	.64596	.63561	.62548	.61558	.60590	.59643
79	.70330	.69233	.68160	.67109	.66081	.65074	.64088	.63123	.62178	.61253
80	.71666	.70605	.69566	.68548	.67550	.66573	.65615	.64676	.63755	.62853

Age	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
81	.72975	.71950	.70946	.69961	.68995	.68047	.67117	.66205	.65310	.64433
82	.74250	.73263	.72293	.71342	.70407	.69490	.68589	.67705	.66837	.65984
83	.75493	.74542	.73608	.72690	.71788	.70902	.70031	.69175	.68333	.67506
84	.76712	.75798	.74900	.74016	.73147	.72292	.71451	.70624	.69810	.69010
85	.77913	.77037	.76175	.75326	.74491	.73668	.72859	.72061	.71276	.70503
86	.79086	.78248	.77423	.76610	.75808	.75019	.74241	.73474	.72719	.71974
87	.80218	.79418	.78628	.77850	.77083	.76326	.75580	.74844	.74118	.73402
88	.81307	.80544	.79790	.79047	.78313	.77589	.76874	.76169	.75473	.74786
89	.82355	.81628	.80909	.80200	.79500	.78808	.78125	.77450	.76783	.76125
90	.83360	.82668	.81985	.81309	.80642	.79982	.79330	.78685	.78048	.77418
91	.84308	.83650	.83000	.82357	.81721	.81092	.80470	.79855	.79246	.78645
92	.85182	.84556	.83937	.83325	.82718	.82119	.81525	.80937	.80356	.79780
93	.85985	.85390	.84800	.84215	.83637	.83064	.82497	.81936	.81379	.80829
94	.86732	.86164	.85601	.85044	.84491	.83944	.83402	.82865	.82333	.81806
95	.87437	.86895	.86359	.85827	.85300	.84778	.84260	.83746	.83237	.82733
96	.88097	.87582	.87070	.86563	.86060	.85561	.85066	.84575	.84088	.83605
97	.88708	.88216	.87727	.87243	.86762	.86285	.85811	.85341	.84875	.84413
98	.89280	.88810	.88343	.87880	.87420	.86964	.86511	.86061	.85614	.85171
99	.89836	.89388	.88943	.88501	.88062	.87626	.87193	.86763	.86336	.85911
100	.90375	.89948	.89525	.89103	.88685	.88269	.87856	.87445	.87037	.86632
101	.90905	.90500	.90097	.89696	.89298	.88902	.88509	.88118	.87729	.87342
102	.91424	.91040	.90658	.90278	.89900	.89524	.89150	.88778	.88408	.88040
103	.91939	.91575	.91214	.90854	.90496	.90139	.89785	.89432	.89081	.88732
104	.92485	.92144	.91805	.91467	.91131	.90796	.90463	.90131	.89800	.89471
105	.93020	.92701	.92383	.92067	.91751	.91437	.91125	.90813	.90502	.90193
106	.93701	.93411	.93122	.92834	.92546	.92260	.91974	.91689	.91405	.91122
107	.94522	.94268	.94013	.93760	.93507	.93254	.93002	.92750	.92499	.92249
108	.95782	.95583	.95385	.95187	.94989	.94791	.94593	.94396	.94199	.94002
109	.97900	.97800	.97700	.97600	.97500	.97400	.97300	.97200	.97100	.97000

Age	6.2%	6.4%	6.6%	6.8%	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%
0	.02693	.02534	.02395	.02271	.02161	.02063	.01976	.01898	.01828	.01765
1	.01922	.01756	.01610	.01480	.01365	.01263	.01171	.01090	.01017	.00951
2	.01975	.01802	.01650	.01514	.01393	.01286	.01190	.01104	.01028	.00959
3	.02056	.01876	.01717	.01575	.01449	.01336	.01235	.01145	.01064	.00992
4	.02155	.01967	.01800	.01652	.01520	.01401	.01296	.01201	.01116	.01039
5	.02266	.02071	.01896	.01741	.01603	.01479	.01368	.01269	.01179	.01098
6	.02389	.02184	.02003	.01841	.01696	.01566	.01450	.01345	.01251	.01166
7	.02522	.02309	.02120	.01950	.01799	.01663	.01540	.01431	.01332	.01242
8	.02665	.02444	.02246	.02069	.01910	.01768	.01640	.01524	.01420	.01326
9	.02821	.02590	.02384	.02199	.02033	.01884	.01750	.01629	.01520	.01421
10	.02990	.02750	.02535	.02342	.02169	.02013	.01872	.01745	.01631	.01526
11	.03172	.02922	.02698	.02497	.02316	.02153	.02006	.01872	.01752	.01643
12	.03365	.03106	.02872	.02663	.02474	.02303	.02149	.02010	.01884	.01769
13	.03566	.03297	.03054	.02835	.02638	.02460	.02299	.02154	.02021	.01901
14	.03770	.03490	.03237	.03010	.02804	.02619	.02450	.02298	.02159	.02033
15	.03973	.03682	.03419	.03182	.02968	.02775	.02599	.02439	.02294	.02162
16	.04173	.03871	.03598	.03352	.03129	.02926	.02743	.02576	.02424	.02286
17	.04372	.04059	.03775	.03519	.03287	.03076	.02884	.02710	.02551	.02406
18	.04573	.04248	.03953	.03686	.03444	.03224	.03024	.02842	.02676	.02524
19	.04780	.04443	.04137	.03859	.03607	.03378	.03169	.02978	.02804	.02646
20	.04997	.04647	.04329	.04040	.03778	.03539	.03321	.03122	.02940	.02773
21	.05226	.04862	.04532	.04232	.03958	.03709	.03481	.03274	.03083	.02909
22	.05465	.05088	.04745	.04432	.04148	.03888	.03650	.03433	.03234	.03052
23	.05716	.05325	.04969	.04645	.04348	.04077	.03830	.03603	.03394	.03203
24	.05983	.05578	.05208	.04871	.04562	.04280	.04021	.03784	.03566	.03367
25	.06266	.05846	.05463	.05112	.04791	.04497	.04227	.03980	.03752	.03543
26	.06566	.06131	.05734	.05369	.05035	.04729	.04448	.04189	.03951	.03732
27	.06887	.06436	.06024	.05646	.05298	.04979	.04686	.04416	.04168	.03939
28	.07225	.06758	.06331	.05938	.05577	.05245	.04940	.04658	.04398	.04159
29	.07581	.07099	.06656	.06248	.05873	.05528	.05210	.04916	.04645	.04394
30	.07956	.07457	.06998	.06575	.06186	.05827	.05495	.05189	.04906	.04644
31	.08348	.07833	.07358	.06920	.06515	.06142	.05797	.05478	.05182	.04908
32	.08761	.08228	.07736	.07282	.06863	.06475	.06116	.05783	.05475	.05189
33	.09195	.08645	.08136	.07666	.07231	.06828	.06454	.06108	.05786	.05488
34	.09651	.09082	.08557	.08070	.07619	.07200	.06812	.06452	.06117	.05805
35	.10131	.09545	.09002	.08498	.08030	.07596	.07193	.06818	.06469	.06144
36	.10635	.10031	.09470	.08949	.08465	.08015	.07596	.07206	.06842	.06503
37	.11165	.10542	.09963	.09424	.08923	.08457	.08022	.07617	.07238	.06885
38	.11722	.11081	.10484	.09927	.09409	.08926	.08475	.08054	.07661	.07293
39	.12308	.11648	.11032	.10458	.09922	.09422	.08955	.08518	.08109	.07726
40	.12925	.12246	.11612	.11020	.10466	.09949	.09465	.09011	.08587	.08189
41	.13575	.12877	.12225	.11614	.11043	.10508	.10007	.09537	.09097	.08683

Age	6.2%	6.4%	6.6%	6.8%	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%
42	.14259	.13542	.12871	.12243	.11654	.11101	.10583	.10097	.09640	.09210
43	.14977	.14242	.13552	.12905	.12298	.11729	.11193	.10690	.10217	.09771
44	.15731	.14976	.14269	.13604	.12979	.12391	.11838	.11318	.10828	.10367
45	.16516	.15743	.15017	.14334	.13691	.13086	.12516	.11979	.11472	.10994
46	.17334	.16544	.15800	.15099	.14438	.13816	.13228	.12674	.12150	.11656
47	.18184	.17375	.16613	.15895	.15217	.14576	.13972	.13400	.12860	.12349
48	.19066	.18240	.17461	.16724	.16029	.15371	.14749	.14161	.13604	.13077
49	.19981	.19138	.18342	.17588	.16875	.16201	.15562	.14956	.14383	.13839
50	.20931	.20072	.19259	.18489	.17759	.17067	.16412	.15790	.15199	.14639
51	.21917	.21042	.20212	.19426	.18679	.17971	.17299	.16660	.16054	.15477
52	.22933	.22043	.21198	.20395	.19633	.18909	.18220	.17566	.16943	.16350
53	.23981	.23076	.22216	.21399	.20621	.19881	.19176	.18506	.17867	.17258
54	.25060	.24141	.23267	.22434	.21642	.20886	.20166	.19480	.18826	.18201
55	.26171	.25239	.24351	.23504	.22697	.21927	.21192	.20491	.19821	.19182
56	.27313	.26369	.25468	.24608	.23787	.23003	.22254	.21538	.20854	.20199
57	.28487	.27531	.26618	.25746	.24912	.24114	.23351	.22621	.21923	.21254
58	.29688	.28722	.27798	.26914	.26067	.25257	.24481	.23738	.23025	.22343
59	.30913	.29937	.29002	.28107	.27249	.26427	.25639	.24882	.24157	.23461
60	.32159	.31175	.30231	.29325	.28457	.27623	.26823	.26055	.25317	.24608
61	.33429	.32437	.31485	.30571	.29692	.28848	.28037	.27257	.26507	.25786
62	.34728	.33730	.32770	.31847	.30960	.30106	.29285	.28495	.27734	.27001
63	.36057	.35053	.34087	.33157	.32262	.31400	.30569	.29769	.28998	.28255
64	.37412	.36404	.35433	.34498	.33596	.32726	.31887	.31078	.30298	.29545
65	.38794	.37783	.36809	.35868	.34961	.34085	.33239	.32422	.31633	.30871
66	.40205	.39193	.38216	.37272	.36361	.35479	.34628	.33804	.33008	.32238
67	.41650	.40639	.39661	.38715	.37800	.36915	.36059	.35230	.34428	.33651
68	.43126	.42117	.41139	.40193	.39277	.38390	.37530	.36697	.35890	.35108
69	.44628	.43622	.42648	.41703	.40787	.39898	.39037	.38201	.37391	.36604
70	.46150	.45149	.44178	.43236	.42321	.41433	.40571	.39735	.38922	.38132
71	.47683	.46689	.45723	.44785	.43873	.42987	.42126	.41290	.40476	.39685
72	.49225	.48238	.47279	.46346	.45439	.44556	.43697	.42862	.42048	.41257
73	.50770	.49793	.48841	.47915	.47013	.46135	.45280	.44447	.43635	.42844
74	.52324	.51358	.50416	.49498	.48603	.47731	.46880	.46051	.45242	.44454
75	.53894	.52939	.52008	.51100	.50214	.49349	.48505	.47681	.46877	.46092
76	.55483	.54543	.53624	.52728	.51852	.50996	.50160	.49344	.48546	.47766
77	.57091	.56167	.55263	.54380	.53516	.52671	.51845	.51038	.50247	.49475
78	.58716	.57809	.56922	.56053	.55203	.54372	.53557	.52760	.51980	.51216
79	.60346	.59459	.58590	.57738	.56904	.56086	.55286	.54501	.53732	.52978
80	.61969	.61102	.60252	.59419	.58601	.57800	.57014	.56243	.55487	.54745
81	.63571	.62726	.61897	.61082	.60283	.59499	.58729	.57974	.57232	.56503
82	.65146	.64324	.63515	.62722	.61942	.61176	.60423	.59683	.58957	.58242
83	.66693	.65893	.65108	.64335	.63575	.62828	.62093	.61371	.60660	.59962
84	.68222	.67447	.66684	.65934	.65195	.64468	.63753	.63049	.62356	.61674
85	.69742	.68993	.68255	.67528	.66812	.66106	.65411	.64727	.64053	.63389
86	.71241	.70517	.69805	.69102	.68410	.67727	.67054	.66390	.65736	.65091
87	.72696	.72000	.71313	.70635	.69967	.69307	.68656	.68014	.67381	.66756
88	.74108	.73438	.72777	.72125	.71480	.70845	.70217	.69597	.68985	.68380
89	.75475	.74832	.74198	.73571	.72951	.72339	.71734	.71137	.70547	.69963
90	.76796	.76180	.75572	.74971	.74376	.73788	.73207	.72633	.72065	.71503
91	.78049	.77460	.76878	.76302	.75732	.75168	.74610	.74058	.73512	.72972
92	.79211	.78647	.78089	.77537	.76990	.76449	.75913	.75383	.74858	.74338
93	.80283	.79743	.79208	.78679	.78154	.77634	.77119	.76610	.76105	.75604
94	.81283	.80765	.80253	.79744	.79240	.78741	.78247	.77756	.77270	.76789
95	.82233	.81737	.81245	.80757	.80274	.79795	.79320	.78849	.78382	.77918
96	.83126	.82651	.82180	.81712	.81248	.80788	.80332	.79880	.79431	.78985
97	.83953	.83498	.83046	.82597	.82152	.81710	.81271	.80836	.80404	.79976
98	.84731	.84294	.83860	.83429	.83002	.82577	.82155	.81737	.81321	.80908
99	.85490	.85071	.84656	.84243	.83832	.83425	.83020	.82618	.82219	.81822
100	.86229	.85828	.85431	.85035	.84642	.84252	.83864	.83478	.83095	.82714
101	.86958	.86575	.86195	.85818	.85442	.85069	.84698	.84329	.83962	.83597
102	.87674	.87310	.86947	.86587	.86229	.85873	.85518	.85166	.84815	.84466
103	.88384	.88038	.87694	.87351	.87010	.86671	.86334	.85998	.85663	.85331
104	.89143	.88817	.88492	.88169	.87847	.87526	.87207	.86889	.86573	.86258
105	.89885	.89578	.89272	.88967	.88664	.88361	.88060	.87760	.87461	.87163
106	.90840	.90559	.90278	.89999	.89720	.89442	.89165	.88888	.88613	.88338
107	.91999	.91750	.91501	.91253	.91005	.90758	.90511	.90265	.90019	.89774
108	.93805	.93609	.93412	.93216	.93020	.92824	.92629	.92434	.92239	.92044
109	.96900	.96800	.96700	.96600	.96500	.96400	.96300	.96200	.96100	.96000

Age	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
0	.01709	.01658	.01612	.01570	.01532	.01497	.01466	.01437	.01410	.01386
1	.00892	.00839	.00791	.00747	.00708	.00672	.00639	.00609	.00582	.00557
2	.00896	.00840	.00790	.00744	.00702	.00664	.00629	.00598	.00569	.00542

Age	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
3	.00926	.00867	.00814	.00765	.00721	.00681	.00644	.00611	.00580	.00552
4	.00970	.00908	.00851	.00800	.00753	.00711	.00672	.00636	.00604	.00574
5	.01026	.00960	.00900	.00846	.00796	.00751	.00710	.00672	.00637	.00606
6	.01089	.01019	.00956	.00899	.00846	.00799	.00755	.00715	.00678	.00644
7	.01161	.01088	.01021	.00960	.00905	.00854	.00808	.00765	.00726	.00690
8	.01241	.01163	.01093	.01029	.00970	.00917	.00867	.00822	.00781	.00743
9	.01331	.01249	.01175	.01107	.01045	.00988	.00936	.00889	.00845	.00804
10	.01432	.01346	.01268	.01196	.01131	.01071	.01016	.00965	.00918	.00875
11	.01543	.01453	.01370	.01295	.01226	.01162	.01104	.01051	.01001	.00956
12	.01664	.01569	.01482	.01403	.01330	.01263	.01202	.01145	.01093	.01045
13	.01791	.01691	.01600	.01516	.01440	.01369	.01304	.01245	.01190	.01139
14	.01918	.01813	.01717	.01629	.01548	.01474	.01406	.01343	.01285	.01231
15	.02041	.01931	.01831	.01738	.01653	.01576	.01504	.01437	.01376	.01320
16	.02160	.02044	.01938	.01841	.01752	.01670	.01595	.01525	.01460	.01401
17	.02274	.02152	.02041	.01940	.01846	.01760	.01680	.01607	.01539	.01476
18	.02386	.02258	.02142	.02035	.01936	.01846	.01762	.01685	.01613	.01547
19	.02500	.02367	.02245	.02132	.02029	.01933	.01845	.01764	.01689	.01619
20	.02621	.02481	.02353	.02235	.02126	.02025	.01933	.01847	.01768	.01694
21	.02749	.02603	.02468	.02344	.02229	.02124	.02026	.01936	.01852	.01774
22	.02884	.02730	.02589	.02458	.02338	.02227	.02124	.02029	.01940	.01859
23	.03028	.02867	.02718	.02581	.02454	.02337	.02229	.02128	.02035	.01949
24	.03183	.03013	.02857	.02713	.02580	.02456	.02342	.02236	.02138	.02047
25	.03350	.03172	.03008	.02857	.02717	.02587	.02467	.02355	.02251	.02155
26	.03530	.03344	.03172	.03013	.02865	.02729	.02602	.02484	.02375	.02273
27	.03727	.03532	.03351	.03183	.03028	.02885	.02751	.02627	.02511	.02404
28	.03937	.03732	.03543	.03367	.03204	.03052	.02911	.02780	.02658	.02545
29	.04162	.03947	.03748	.03564	.03392	.03233	.03084	.02946	.02818	.02698
30	.04401	.04176	.03967	.03773	.03593	.03425	.03269	.03124	.02988	.02861
31	.04654	.04419	.04200	.03996	.03807	.03630	.03466	.03312	.03169	.03035
32	.04923	.04676	.04447	.04233	.04034	.03849	.03676	.03514	.03363	.03221
33	.05210	.04952	.04711	.04487	.04278	.04083	.03901	.03731	.03571	.03422
34	.05515	.05245	.04993	.04758	.04538	.04333	.04142	.03962	.03794	.03637
35	.05841	.05558	.05295	.05048	.04818	.04603	.04401	.04212	.04035	.03869
36	.06187	.05892	.05616	.05358	.05116	.04890	.04678	.04480	.04293	.04118
37	.06555	.06247	.05958	.05688	.05435	.05198	.04975	.04766	.04570	.04385
38	.06949	.06627	.06325	.06043	.05777	.05528	.05295	.05075	.04868	.04674
39	.07368	.07032	.06717	.06421	.06143	.05882	.05637	.05406	.05189	.04984
40	.07816	.07465	.07137	.06827	.06537	.06263	.06006	.05764	.05535	.05320
41	.08295	.07930	.07587	.07264	.06960	.06674	.06405	.06150	.05910	.05683
42	.08807	.08427	.08069	.07733	.07415	.07116	.06833	.06567	.06315	.06077
43	.09352	.08957	.08585	.08233	.07902	.07589	.07294	.07014	.06750	.06500
44	.09932	.09521	.09134	.08768	.08423	.08096	.07787	.07495	.07218	.06956
45	.10543	.10117	.09715	.09334	.08974	.08634	.08311	.08005	.07716	.07441
46	.11189	.10747	.10329	.09933	.09559	.09204	.08867	.08548	.08245	.07958
47	.11866	.11408	.10974	.10564	.10174	.09805	.09454	.09121	.08805	.08504
48	.12577	.12103	.11654	.11228	.10823	.10439	.10074	.09727	.09397	.09083
49	.13323	.12833	.12368	.11926	.11506	.11107	.10728	.10366	.10022	.09695
50	.14107	.13601	.13120	.12663	.12228	.11813	.11419	.11043	.10685	.10344
51	.14928	.14407	.13910	.13437	.12987	.12558	.12149	.11758	.11386	.11031
52	.15785	.15248	.14735	.14247	.13781	.13337	.12913	.12508	.12122	.11752
53	.16678	.16124	.15597	.15093	.14612	.14153	.13714	.13294	.12893	.12509
54	.17606	.17037	.16493	.15974	.15478	.15004	.14550	.14116	.13700	.13302
55	.18570	.17986	.17428	.16893	.16382	.15893	.15424	.14976	.14546	.14134
56	.19573	.18974	.18400	.17851	.17325	.16821	.16338	.15875	.15430	.15004
57	.20613	.20000	.19412	.18848	.18307	.17789	.17291	.16814	.16355	.15914
58	.21688	.21060	.20458	.19880	.19325	.18792	.18280	.17788	.17316	.16861
59	.22793	.22151	.21535	.20943	.20374	.19827	.19301	.18795	.18309	.17840
60	.23927	.23272	.22642	.22036	.21454	.20893	.20354	.19834	.19334	.18851
61	.25092	.24425	.23782	.23163	.22567	.21993	.21440	.20907	.20393	.19898
62	.26295	.25616	.24961	.24329	.23721	.23134	.22568	.22021	.21494	.20985
63	.27538	.26847	.26180	.25537	.24916	.24316	.23738	.23179	.22639	.22117
64	.28817	.28116	.27438	.26783	.26150	.25539	.24949	.24377	.23825	.23291
65	.30134	.29423	.28735	.28069	.27426	.26803	.26201	.25618	.25054	.24508
66	.31493	.30772	.30075	.29399	.28746	.28113	.27500	.26906	.26331	.25774
67	.32899	.32170	.31464	.30780	.30118	.29475	.28852	.28248	.27663	.27095
68	.34349	.33614	.32901	.32209	.31538	.30887	.30256	.29643	.29047	.28469
69	.35841	.35100	.34381	.33683	.33005	.32346	.31707	.31085	.30481	.29894
70	.37366	.36620	.35896	.35193	.34509	.33844	.33197	.32568	.31957	.31362
71	.38916	.38167	.37440	.36732	.36043	.35372	.34720	.34084	.33466	.32864
72	.40486	.39736	.39006	.38295	.37602	.36927	.36270	.35629	.35005	.34396
73	.42074	.41323	.40591	.39878	.39182	.38504	.37843	.37198	.36568	.35955
74	.43685	.42934	.42202	.41488	.40791	.40110	.39446	.38798	.38165	.37547
75	.45326	.44577	.43846	.43132	.42435	.41754	.41088	.40438	.39802	.39181
76	.47004	.46259	.45530	.44818	.44122	.43442	.42776	.42125	.41488	.40865

Age	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
77	.48718	.47979	.47255	.46547	.45853	.45175	.44511	.43861	.43225	.42601
78	.50467	.49735	.49017	.48314	.47626	.46951	.46290	.45643	.45008	.44386
79	.52239	.51515	.50806	.50110	.49427	.48758	.48102	.47459	.46828	.46209
80	.54018	.53304	.52603	.51916	.51242	.50580	.49930	.49292	.48666	.48052
81	.55788	.55085	.54396	.53718	.53053	.52399	.51757	.51126	.50507	.49898
82	.57540	.56851	.56173	.55506	.54851	.54207	.53574	.52951	.52339	.51737
83	.59274	.58598	.57933	.57279	.56635	.56001	.55378	.54765	.54161	.53567
84	.61002	.60341	.59690	.59049	.58418	.57796	.57184	.56582	.55988	.55403
85	.62734	.62090	.61454	.60828	.60211	.59603	.59004	.58414	.57832	.57258
86	.64455	.63828	.63210	.62600	.61999	.61406	.60821	.60244	.59675	.59113
87	.66139	.65531	.64930	.64337	.63752	.63175	.62605	.62043	.61488	.60939
88	.67783	.67194	.66612	.66037	.65469	.64908	.64354	.63807	.63267	.62733
89	.69387	.68817	.68254	.67698	.67148	.66605	.66068	.65537	.65012	.64493
90	.70947	.70398	.69855	.69318	.68786	.68261	.67742	.67228	.66719	.66217
91	.72437	.71908	.71385	.70867	.70354	.69847	.69345	.68848	.68357	.67870
92	.73823	.73314	.72810	.72310	.71816	.71326	.70841	.70361	.69886	.69415
93	.75109	.74618	.74132	.73650	.73173	.72700	.72232	.71768	.71308	.70852
94	.76312	.75839	.75370	.74905	.74445	.73988	.73536	.73087	.72643	.72202
95	.77459	.77004	.76552	.76104	.75660	.75220	.74783	.74350	.73920	.73494
96	.78543	.78105	.77670	.77238	.76810	.76386	.75964	.75546	.75131	.74720
97	.79550	.79128	.78709	.78293	.77880	.77470	.77063	.76659	.76258	.75860
98	.80498	.80091	.79687	.79286	.78888	.78492	.78099	.77709	.77322	.76937
99	.81428	.81036	.80647	.80261	.79877	.79496	.79117	.78741	.78367	.77995
100	.82336	.81959	.81586	.81214	.80845	.80478	.80113	.79751	.79390	.79032
101	.83234	.82873	.82515	.82158	.81804	.81451	.81101	.80753	.80406	.80062
102	.84119	.83774	.83431	.83089	.82750	.82412	.82076	.81742	.81409	.81078
103	.84999	.84670	.84342	.84016	.83691	.83368	.83046	.82726	.82408	.82091
104	.85944	.85632	.85321	.85011	.84703	.84396	.84090	.83786	.83483	.83182
105	.86866	.86570	.86276	.85982	.85690	.85399	.85109	.84820	.84532	.84245
106	.88065	.87792	.87520	.87248	.86978	.86708	.86440	.86172	.85905	.85638
107	.89530	.89286	.89042	.88799	.88557	.88315	.88073	.87833	.87592	.87352
108	.91849	.91654	.91460	.91266	.91072	.90879	.90685	.90492	.90299	.90106
109	.95900	.95800	.95700	.95600	.95500	.95400	.95300	.95200	.95100	.95000

Age	10.2%	10.4%	10.6%	10.8%	11.0%	11.2%	11.4%	11.6%	11.8%	12.0%
0	.01363	.01342	.01323	.01305	.01288	.01272	.01258	.01244	.01231	.01219
1	.00534	.00512	.00493	.00474	.00458	.00442	.00427	.00414	.00401	.00389
2	.00518	.00495	.00474	.00455	.00437	.00421	.00405	.00391	.00377	.00365
3	.00526	.00502	.00480	.00459	.00440	.00422	.00406	.00391	.00376	.00363
4	.00546	.00521	.00497	.00475	.00455	.00436	.00419	.00402	.00387	.00373
5	.00576	.00549	.00524	.00501	.00479	.00459	.00440	.00423	.00406	.00391
6	.00613	.00584	.00557	.00532	.00509	.00488	.00468	.00449	.00432	.00415
7	.00657	.00626	.00598	.00571	.00547	.00524	.00502	.00482	.00464	.00446
8	.00707	.00675	.00644	.00616	.00590	.00565	.00542	.00521	.00501	.00482
9	.00766	.00732	.00699	.00669	.00641	.00615	.00591	.00568	.00547	.00527
10	.00835	.00798	.00764	.00732	.00702	.00675	.00649	.00624	.00602	.00580
11	.00913	.00874	.00838	.00804	.00772	.00743	.00715	.00689	.00665	.00642
12	.01000	.00959	.00920	.00884	.00851	.00819	.00790	.00762	.00737	.00712
13	.01091	.01048	.01007	.00969	.00933	.00900	.00869	.00840	.00813	.00787
14	.01181	.01135	.01092	.01052	.01014	.00979	.00947	.00916	.00887	.00860
15	.01267	.01218	.01173	.01130	.01091	.01054	.01019	.00987	.00956	.00928
16	.01345	.01294	.01246	.01201	.01160	.01121	.01084	.01050	.01018	.00988
17	.01418	.01364	.01313	.01266	.01222	.01181	.01143	.01107	.01073	.01041
18	.01486	.01429	.01375	.01326	.01279	.01236	.01196	.01158	.01122	.01088
19	.01554	.01494	.01438	.01385	.01336	.01291	.01248	.01208	.01170	.01135
20	.01626	.01562	.01503	.01448	.01396	.01348	.01303	.01260	.01220	.01183
21	.01702	.01635	.01573	.01514	.01460	.01409	.01361	.01316	.01274	.01235
22	.01782	.01711	.01645	.01584	.01526	.01472	.01422	.01374	.01330	.01288
23	.01868	.01793	.01724	.01658	.01597	.01540	.01487	.01437	.01390	.01345
24	.01962	.01883	.01809	.01740	.01675	.01615	.01558	.01505	.01455	.01408
25	.02065	.01981	.01903	.01830	.01762	.01698	.01638	.01581	.01528	.01478
26	.02178	.02089	.02006	.01929	.01856	.01789	.01725	.01665	.01609	.01556
27	.02303	.02209	.02122	.02040	.01963	.01891	.01824	.01760	.01700	.01644
28	.02439	.02339	.02247	.02160	.02079	.02002	.01931	.01863	.01800	.01740
29	.02585	.02480	.02382	.02290	.02204	.02123	.02047	.01976	.01908	.01845
30	.02742	.02631	.02527	.02430	.02339	.02253	.02172	.02096	.02025	.01957
31	.02910	.02793	.02683	.02579	.02482	.02391	.02306	.02225	.02149	.02077
32	.03089	.02965	.02849	.02739	.02636	.02540	.02449	.02363	.02282	.02206
33	.03282	.03151	.03028	.02912	.02803	.02701	.02604	.02513	.02427	.02346
34	.03489	.03350	.03220	.03097	.02982	.02873	.02771	.02674	.02583	.02497
35	.03713	.03567	.03429	.03299	.03177	.03061	.02953	.02850	.02753	.02661
36	.03953	.03798	.03653	.03515	.03386	.03263	.03148	.03039	.02936	.02838
37	.04211	.04048	.03894	.03748	.03611	.03481	.03359	.03243	.03134	.03030

Age	10.2%	10.4%	10.6%	10.8%	11.0%	11.2%	11.4%	11.6%	11.8%	12.0%
38	.04490	.04318	.04155	.04001	.03856	.03719	.03589	.03466	.03350	.03239
39	.04791	.04609	.04437	.04274	.04120	.03975	.03837	.03707	.03583	.03466
40	.05116	.04924	.04742	.04571	.04408	.04254	.04108	.03970	.03839	.03714
41	.05469	.05267	.05075	.04894	.04722	.04559	.04405	.04258	.04119	.03987
42	.05851	.05638	.05436	.05245	.05063	.04891	.04728	.04573	.04425	.04285
43	.06263	.06039	.05827	.05625	.05433	.05252	.05079	.04915	.04759	.04610
44	.06707	.06472	.06248	.06035	.05834	.05642	.05459	.05286	.05121	.04963
45	.07180	.06933	.06698	.06474	.06262	.06059	.05867	.05684	.05509	.05342
46	.07685	.07425	.07178	.06943	.06720	.06507	.06304	.06110	.05926	.05750
47	.08218	.07946	.07687	.07440	.07205	.06981	.06768	.06564	.06369	.06183
48	.08784	.08499	.08228	.07969	.07722	.07487	.07262	.07047	.06842	.06646
49	.09382	.09085	.08801	.08530	.08271	.08024	.07788	.07562	.07346	.07140
50	.10018	.09707	.09410	.09127	.08856	.08597	.08349	.08112	.07885	.07667
51	.10691	.10367	.10057	.09761	.09477	.09206	.08946	.08697	.08459	.08231
52	.11399	.11061	.10738	.10429	.10132	.09849	.09577	.09316	.09066	.08826
53	.12142	.11791	.11454	.11132	.10823	.10526	.10242	.09969	.09707	.09456
54	.12921	.12556	.12206	.11870	.11548	.11239	.10942	.10657	.10383	.10120
55	.13738	.13359	.12995	.12646	.12311	.11989	.11679	.11382	.11096	.10820
56	.14595	.14202	.13824	.13462	.13113	.12778	.12456	.12146	.11847	.11560
57	.15491	.15084	.14693	.14317	.13955	.13607	.13272	.12949	.12638	.12338
58	.16424	.16004	.15599	.15209	.14834	.14473	.14125	.13789	.13465	.13153
59	.17390	.16955	.16537	.16134	.15746	.15371	.15010	.14662	.14325	.14001
60	.18387	.17939	.17507	.17091	.16689	.16302	.15927	.15566	.15217	.14880
61	.19420	.18958	.18513	.18084	.17669	.17268	.16881	.16506	.16145	.15795
62	.20494	.20020	.19561	.19119	.18691	.18277	.17877	.17490	.17115	.16753
63	.21613	.21126	.20654	.20199	.19758	.19331	.18918	.18518	.18131	.17757
64	.22774	.22274	.21791	.21322	.20869	.20429	.20004	.19592	.19192	.18805
65	.23979	.23467	.22971	.22490	.22025	.21573	.21135	.20710	.20299	.19899
66	.25233	.24709	.24202	.23709	.23231	.22767	.22318	.21881	.21457	.21045
67	.26543	.26009	.25489	.24985	.24496	.24021	.23560	.23111	.22676	.22252
68	.27908	.27363	.26833	.26319	.25819	.25332	.24860	.24400	.23954	.23519
69	.29324	.28769	.28230	.27705	.27195	.26699	.26216	.25746	.25288	.24843
70	.30783	.30219	.29671	.29137	.28618	.28112	.27619	.27139	.26672	.26216
71	.32277	.31706	.31150	.30608	.30079	.29564	.29063	.28573	.28096	.27631
72	.33803	.33225	.32661	.32112	.31575	.31052	.30542	.30044	.29559	.29084
73	.35356	.34772	.34201	.33645	.33101	.32571	.32053	.31547	.31053	.30571
74	.36943	.36354	.35778	.35215	.34666	.34129	.33604	.33091	.32590	.32100
75	.38574	.37980	.37400	.36833	.36278	.35735	.35205	.34686	.34178	.33681
76	.40256	.39660	.39076	.38505	.37947	.37400	.36864	.36340	.35827	.35324
77	.41991	.41394	.40808	.40235	.39674	.39124	.38585	.38056	.37539	.37032
78	.43777	.43180	.42594	.42020	.41457	.40906	.40365	.39834	.39314	.38803
79	.45602	.45007	.44422	.43849	.43287	.42735	.42193	.41661	.41139	.40627
80	.47449	.46856	.46275	.45704	.45143	.44592	.44051	.43519	.42997	.42484
81	.49300	.48712	.48134	.47566	.47008	.46460	.45921	.45391	.44870	.44357
82	.51145	.50563	.49990	.49427	.48873	.48328	.47792	.47265	.46746	.46235
83	.52983	.52407	.51841	.51284	.50735	.50195	.49663	.49139	.48624	.48116
84	.54828	.54261	.53702	.53151	.52609	.52075	.51549	.51030	.50519	.50015
85	.56693	.56135	.55586	.55044	.54510	.53983	.53464	.52952	.52447	.51949
86	.58560	.58013	.57474	.56943	.56418	.55901	.55390	.54886	.54389	.53898
87	.60398	.59864	.59337	.58817	.58303	.57795	.57294	.56799	.56310	.55828
88	.62206	.61685	.61170	.60662	.60159	.59663	.59173	.58688	.58209	.57736
89	.63980	.63474	.62972	.62477	.61987	.61503	.61024	.60551	.60083	.59620
90	.65719	.65227	.64741	.64259	.63783	.63312	.62846	.62385	.61928	.61477
91	.67388	.66912	.66440	.65973	.65511	.65053	.64600	.64152	.63708	.63269
92	.68949	.68487	.68030	.67577	.67129	.66685	.66245	.65809	.65378	.64950
93	.70401	.69954	.69511	.69072	.68637	.68205	.67778	.67355	.66935	.66519
94	.71765	.71332	.70902	.70477	.70055	.69636	.69222	.68810	.68403	.67998
95	.73072	.72653	.72237	.71825	.71416	.71010	.70608	.70209	.69813	.69421
96	.74311	.73906	.73504	.73105	.72709	.72316	.71926	.71539	.71155	.70774
97	.75465	.75073	.74684	.74297	.73914	.73533	.73155	.72780	.72407	.72037
98	.76555	.76175	.75798	.75424	.75052	.74683	.74317	.73953	.73591	.73232
99	.77626	.77260	.76895	.76534	.76174	.75817	.75462	.75109	.74759	.74411
100	.78676	.78323	.77971	.77622	.77274	.76929	.76586	.76245	.75906	.75569
101	.79719	.79379	.79040	.78703	.78368	.78035	.77704	.77375	.77048	.76722
102	.80749	.80422	.80096	.79772	.79450	.79130	.78811	.78494	.78178	.77864
103	.81775	.81461	.81149	.80838	.80529	.80221	.79914	.79609	.79306	.79003
104	.82881	.82582	.82284	.81988	.81693	.81399	.81106	.80815	.80525	.80236
105	.83959	.83674	.83391	.83108	.82826	.82546	.82267	.81988	.81711	.81435
106	.85373	.85108	.84844	.84581	.84319	.84058	.83797	.83537	.83278	.83020
107	.87113	.86875	.86636	.86399	.86161	.85925	.85689	.85453	.85218	.84984
108	.89913	.89721	.89529	.89337	.89145	.88953	.88762	.88571	.88380	.88189
109	.94900	.94800	.94700	.94600	.94500	.94400	.94300	.94200	.94100	.94000

Age	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
0	.01208	.01197	.01187	.01177	.01168	.01159	.01151	.01143	.01135	.01128
1	.00378	.00367	.00358	.00348	.00340	.00331	.00323	.00316	.00309	.00302
2	.00353	.00342	.00331	.00322	.00312	.00304	.00295	.00288	.00280	.00273
3	.00350	.00339	.00327	.00317	.00307	.00298	.00289	.00281	.00273	.00265
4	.00359	.00347	.00335	.00324	.00313	.00303	.00294	.00285	.00276	.00268
5	.00377	.00363	.00351	.00339	.00327	.00317	.00306	.00297	.00288	.00279
6	.00400	.00386	.00372	.00359	.00347	.00335	.00325	.00314	.00305	.00295
7	.00430	.00414	.00400	.00386	.00373	.00360	.00349	.00338	.00327	.00317
8	.00465	.00448	.00432	.00417	.00403	.00390	.00378	.00366	.00354	.00344
9	.00508	.00490	.00473	.00457	.00442	.00428	.00414	.00402	.00389	.00378
10	.00560	.00541	.00523	.00506	.00490	.00475	.00460	.00446	.00433	.00421
11	.00620	.00600	.00581	.00563	.00546	.00529	.00514	.00499	.00485	.00472
12	.00689	.00668	.00647	.00628	.00610	.00593	.00576	.00560	.00545	.00531
13	.00763	.00740	.00718	.00698	.00678	.00660	.00642	.00626	.00610	.00595
14	.00834	.00810	.00787	.00766	.00745	.00726	.00707	.00689	.00673	.00657
15	.00901	.00875	.00851	.00828	.00807	.00786	.00767	.00748	.00730	.00714
16	.00959	.00932	.00907	.00883	.00860	.00839	.00818	.00799	.00780	.00762
17	.01011	.00983	.00956	.00930	.00907	.00884	.00862	.00842	.00822	.00804
18	.01057	.01027	.00999	.00972	.00947	.00923	.00900	.00879	.00858	.00839
19	.01101	.01070	.01040	.01012	.00985	.00960	.00936	.00914	.00892	.00871
20	.01148	.01115	.01083	.01054	.01026	.00999	.00974	.00950	.00927	.00905
21	.01197	.01162	.01129	.01098	.01068	.01040	.01014	.00988	.00964	.00941
22	.01249	.01211	.01176	.01143	.01112	.01082	.01054	.01027	.01002	.00978
23	.01304	.01264	.01227	.01192	.01159	.01127	.01098	.01069	.01042	.01017
24	.01364	.01322	.01283	.01246	.01210	.01177	.01145	.01115	.01087	.01060
25	.01431	.01387	.01345	.01306	.01268	.01233	.01199	.01168	.01137	.01109
26	.01506	.01459	.01415	.01373	.01333	.01295	.01260	.01226	.01194	.01163
27	.01591	.01541	.01494	.01449	.01407	.01367	.01329	.01293	.01259	.01226
28	.01684	.01631	.01580	.01533	.01488	.01445	.01405	.01367	.01330	.01296
29	.01785	.01728	.01675	.01624	.01577	.01531	.01488	.01447	.01408	.01372
30	.01893	.01833	.01776	.01723	.01672	.01623	.01578	.01534	.01493	.01453
31	.02010	.01946	.01885	.01828	.01773	.01722	.01673	.01627	.01582	.01540
32	.02134	.02066	.02002	.01940	.01883	.01828	.01776	.01726	.01679	.01634
33	.02270	.02197	.02128	.02063	.02002	.01943	.01887	.01835	.01784	.01736
34	.02415	.02338	.02265	.02195	.02130	.02067	.02008	.01951	.01897	.01846
35	.02574	.02492	.02414	.02340	.02270	.02203	.02140	.02080	.02022	.01967
36	.02746	.02658	.02575	.02496	.02422	.02350	.02283	.02218	.02157	.02098
37	.02932	.02838	.02750	.02666	.02586	.02510	.02438	.02369	.02303	.02241
38	.03135	.03035	.02941	.02851	.02766	.02685	.02608	.02534	.02464	.02397
39	.03355	.03249	.03149	.03053	.02962	.02876	.02793	.02715	.02640	.02568
40	.03596	.03484	.03377	.03275	.03178	.03086	.02998	.02914	.02833	.02757
41	.03861	.03742	.03628	.03520	.03416	.03318	.03224	.03134	.03048	.02966
42	.04152	.04025	.03903	.03788	.03678	.03573	.03473	.03377	.03285	.03198
43	.04468	.04333	.04205	.04082	.03965	.03853	.03746	.03644	.03546	.03453
44	.04813	.04670	.04533	.04403	.04278	.04159	.04045	.03936	.03832	.03732
45	.05183	.05032	.04887	.04748	.04616	.04489	.04368	.04252	.04141	.04034
46	.05582	.05421	.05267	.05121	.04980	.04846	.04717	.04593	.04475	.04362
47	.06006	.05836	.05673	.05518	.05369	.05226	.05089	.04958	.04832	.04711
48	.06459	.06279	.06107	.05943	.05785	.05634	.05488	.05349	.05216	.05087
49	.06942	.06752	.06571	.06397	.06230	.06070	.05916	.05768	.05626	.05490
50	.07459	.07259	.07068	.06884	.06708	.06538	.06376	.06219	.06069	.05924
51	.08012	.07801	.07599	.07406	.07220	.07041	.06869	.06703	.06544	.06391
52	.08596	.08375	.08163	.07959	.07763	.07574	.07392	.07218	.07049	.06887
53	.09214	.08982	.08759	.08544	.08338	.08139	.07948	.07763	.07586	.07415
54	.09867	.09623	.09389	.09164	.08946	.08737	.08536	.08342	.08154	.07974
55	.10556	.10301	.10055	.09819	.09591	.09371	.09159	.08955	.08757	.08567
56	.11283	.11016	.10759	.10511	.10272	.10042	.09819	.09605	.09397	.09197
57	.12050	.11771	.11502	.11243	.10993	.10751	.10518	.10293	.10075	.09864
58	.12852	.12562	.12281	.12011	.11749	.11496	.11252	.11016	.10787	.10567
59	.13687	.13385	.13092	.12810	.12537	.12273	.12017	.11770	.11531	.11299
60	.14554	.14240	.13935	.13641	.13356	.13080	.12813	.12555	.12305	.12063
61	.15457	.15130	.14813	.14507	.14210	.13923	.13644	.13375	.13113	.12860
62	.16402	.16063	.15734	.15415	.15107	.14808	.14518	.14237	.13964	.13699
63	.17393	.17042	.16700	.16370	.16049	.15738	.15437	.15144	.14860	.14584
64	.18429	.18065	.17712	.17369	.17036	.16714	.16400	.16096	.15800	.15513
65	.19511	.19135	.18769	.18415	.18070	.17735	.17410	.17094	.16787	.16488
66	.20645	.20257	.19880	.19513	.19157	.18810	.18473	.18146	.17827	.17517
67	.21841	.21441	.21052	.20673	.20305	.19947	.19599	.19259	.18929	.18608
68	.23096	.22685	.22284	.21895	.21515	.21146	.20786	.20436	.20094	.19762
69	.24409	.23987	.23575	.23175	.22784	.22404	.22033	.21672	.21320	.20976
70	.25772	.25339	.24918	.24507	.24106	.23715	.23333	.22961	.22598	.22244
71	.27178	.26735	.26304	.25882	.25471	.25070	.24679	.24296	.23923	.23559
72	.28622	.28170	.27729	.27298	.26877	.26467	.26065	.25673	.25290	.24915
73	.30100	.29639	.29189	.28749	.28320	.27899	.27489	.27087	.26694	.26310

Age	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
74	.31621	.31152	.30694	.30246	.29807	.29378	.28959	.28548	.28146	.27753
75	.33195	.32719	.32253	.31797	.31351	.30914	.30486	.30067	.29657	.29255
76	.34832	.34350	.33877	.33415	.32961	.32517	.32082	.31656	.31238	.30828
77	.36535	.36047	.35570	.35101	.34642	.34192	.33750	.33317	.32892	.32475
78	.38302	.37811	.37329	.36856	.36392	.35937	.35490	.35051	.34621	.34198
79	.40124	.39630	.39145	.38669	.38201	.37742	.37291	.36848	.36413	.35985
80	.41980	.41485	.40998	.40520	.40050	.39588	.39134	.38688	.38249	.37818
81	.43854	.43358	.42871	.42392	.41921	.41457	.41001	.40553	.40112	.39678
82	.45733	.45238	.44752	.44273	.43802	.43338	.42881	.42431	.41989	.41553
83	.47616	.47123	.46638	.46161	.45690	.45227	.44770	.44320	.43877	.43441
84	.49519	.49030	.48548	.48073	.47604	.47143	.46688	.46239	.45797	.45361
85	.51458	.50974	.50496	.50025	.49560	.49102	.48650	.48204	.47763	.47329
86	.53413	.52935	.52463	.51998	.51538	.51084	.50636	.50194	.49758	.49327
87	.55351	.54881	.54416	.53957	.53503	.53055	.52613	.52176	.51744	.51317
88	.57268	.56806	.56349	.55898	.55451	.55010	.54574	.54144	.53718	.53296
89	.59162	.58710	.58262	.57819	.57382	.56949	.56520	.56097	.55678	.55263
90	.61030	.60588	.60151	.59718	.59290	.58866	.58447	.58032	.57621	.57214
91	.62834	.62403	.61977	.61554	.61136	.60722	.60312	.59907	.59505	.59107
92	.64527	.64107	.63692	.63280	.62872	.62468	.62068	.61672	.61279	.60890
93	.66107	.65699	.65294	.64893	.64495	.64101	.63711	.63323	.62940	.62559
94	.67597	.67200	.66806	.66415	.66027	.65643	.65262	.64884	.64509	.64138
95	.69031	.68645	.68262	.67881	.67504	.67130	.66759	.66390	.66025	.65662
96	.70396	.70021	.69648	.69279	.68912	.68548	.68186	.67828	.67471	.67118
97	.71670	.71305	.70943	.70584	.70227	.69872	.69520	.69171	.68824	.68480
98	.72875	.72521	.72169	.71819	.71472	.71127	.70784	.70444	.70106	.69770
99	.74065	.73721	.73379	.73040	.72703	.72368	.72035	.71704	.71375	.71048
100	.75234	.74901	.74570	.74241	.73914	.73589	.73265	.72944	.72625	.72307
101	.76399	.76077	.75757	.75438	.75122	.74807	.74494	.74183	.73873	.73565
102	.77552	.77241	.76932	.76625	.76319	.76015	.75712	.75411	.75111	.74813
103	.78703	.78404	.78106	.77809	.77514	.77221	.76929	.76638	.76348	.76060
104	.79948	.79662	.79377	.79093	.78810	.78528	.78248	.77969	.77691	.77414
105	.81159	.80885	.80612	.80340	.80069	.79799	.79530	.79262	.78995	.78729
106	.82763	.82506	.82250	.81995	.81741	.81488	.81235	.80983	.80732	.80482
107	.84749	.84516	.84283	.84051	.83819	.83587	.83356	.83126	.82896	.82666
108	.87999	.87808	.87618	.87428	.87238	.87049	.86859	.86670	.86481	.86293
109	.93900	.93800	.93700	.93600	.93500	.93400	.93300	.93200	.93100	.93000

(f) *Effective dates.* This section applies after April 30, 1999.

Par. 10. The undesignated center heading immediately preceding § 1.664–4A is revised to read as follows:

Unitrust Actuarial Tables Applicable Before May 1, 1999

Par. 11. Section 1.664–4A is amended as follows:

1. The section heading is revised.

2. In paragraph (d)(4), the first sentence is revised.

3. In paragraph (d)(6), the introductory text is revised and Table D is removed.

4. The heading of newly designated paragraph (e) is revised.

5. In newly designated paragraph (e)(1), the first sentence is revised.

6. Newly designated paragraphs (e)(3) through (e)(5) are revised.

7. In newly designated paragraph (e)(6), the heading and the first sentence of the introductory text are revised and the last sentence of introductory text is removed and two new sentences are added in its place.

8. The heading of Table U(1) is revised.

The addition and revisions read as follows:

§ 1.664–4A Valuation of charitable remainder interests for which the valuation date is before May 1, 1999.

* * * * *

(d) * * *

(4) *Period is a term of years.* If the period described in § 1.664–3(a)(5) is a term of years, the factor which is used in determining the present value of the remainder interest is the factor under the appropriate adjusted payout rate in Table D in § 1.664–4(e)(6) that corresponds to the number of years in the term. * * *

* * * * *

(6) *Actuarial tables for transfers for which the valuation date is after November 30, 1983, and before May 1, 1989.* Table D in § 1.664–4(e)(6) and the following tables shall be used in the application of the provisions of this section:

* * * * *

(e) *Valuation of charitable remainder unitrusts having certain payout sequences for transfers for which the valuation date is after April 30, 1989, and before May 1, 1999*—(1) *In general.* Except as otherwise provided in paragraph (e)(2) of this section, in the case of transfers for which the valuation date is after April 30, 1989, and before May 1, 1999, the present value of a remainder interest is determined under paragraphs (e)(3) through (e)(6) of this section, provided that the amount of the payout as of any payout date during any taxable year of the trust is not larger than the amount that the trust could distribute on such date under § 1.664–3(a)(1)(v) if the taxable year of the trust were to end on such date. * * *

* * * * *

(3) *Adjusted payout rate.* For transfers for which the valuation date is after April 30, 1989, and before May 1, 1999, the adjusted payout rate is determined by using the appropriate Table F, contained in § 1.664–4(e)(6), for the section 7520 interest rate applicable to the transfer. If the interest rate is between 4.2 and 14 percent, see § 1.664–4(e)(6). If the interest rate is below 4.2 percent or greater than 14 percent, see § 1.664–4(b). See § 1.664–4(e) for rules applicable in determining the adjusted payout rate.

(4) *Period is a term of years.* If the period described in § 1.664–3(a)(5) is a term of years, the factor that is used in

determining the present value of the remainder interest for transfers for which the valuation date is after April 30, 1989, and before May 1, 1999, is the factor under the appropriate adjusted payout rate in Table D in § 1.664–4(e)(6) corresponding to the number of years in the term. If the adjusted payout rate is an amount that is between adjusted payout rates for which factors are provided in Table D, a linear interpolation must be made. The present value of the remainder interest is determined by multiplying the net fair market value (as of the appropriate valuation date) of the property placed in trust by the factor determined under this paragraph. Generally, for purposes of this section, the valuation date is, in the case of an inter vivos transfer, the date on which the property is transferred to the trust by the donor, and, in the case of a testamentary transfer under sections 2055, 2106, or 2624, the valuation date is the date of death. See § 1.664–4T(e)(4) for additional rules regarding the valuation date. See § 1.664–4T(e)(4) for an example that illustrates the application of this paragraph (e)(4).

(5) *Period is the life of one individual.* If the period described in § 1.664–3(a)(5) is the life of one individual, the factor that is used in determining the present value of the remainder interest for transfers for which the valuation date is after April 30, 1989, and before May 1, 1999, is the factor in Table U(1) in paragraph (e)(6) of this section under the appropriate adjusted payout. For purposes of the computations described in this paragraph (e)(5), the age of an individual is the age of that individual at the individual's nearest birthday. If the adjusted payout rate is an amount that is between adjusted payout rates for which factors are provided in the appropriate table, a linear interpolation must be made. The rules provided in § 1.664–4T(e)(5) apply for determining the present value of the remainder interest. See § 1.664–4T(e)(5) for an example illustrating the application of this paragraph (e)(5)(using current actuarial tables).

(6) *Actuarial tables for transfers for which the valuation date is after April 30, 1989, and before May 1, 1999.* For transfers for which the valuation date is after April 30, 1989, and before May 1, 1999, the present value of a charitable remainder unitrust interest that is dependent on a term of years or the termination of a life interest is determined by using the section 7520 rate and Table D, Tables F(4.2) through F(14.0) in § 1.664–4(e)(6) and Table U(1) of this paragraph (e)(6), as applicable. * * * Publication 1458 is no longer available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. However, pertinent factors in this publication may be obtained by a written request to: CC:DOM:CORP:R (IRS Publication 1458), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044.

TABLE U(1).—UNITRUST SINGLE LIFE REMAINDER FACTORS—BASED ON LIFE TABLE 80CNSMT

[Applicable for Transfers After April 30, 1989, and Before May 1, 1999]

* * * * *

Par. 12. Section 1.7520–1 is amended by:

1. Revising the last two sentences of paragraph (b)(2).

2. Revising the headings for paragraphs (c)(1) and (c)(2).

3. Revising the introductory text of paragraph (c)(2).

4. Removing the first two sentences of paragraph (c)(2)(iii) and adding one sentence in their place.

5. Revising paragraph (d).

The revisions and addition read as follows:

§ 1.7520–1 Valuation of annuities, unitrust interests, interests for life or terms of years, and remainder or reversionary interests.

* * * * *

(b) * * *

(2) * * * For transactions with valuation dates after April 30, 1989, and before May 1, 1999, the mortality component table (80CNSMT) is contained in § 20.2031–7A(e)(4) of this chapter. See § 20.2031–7A(a) through (d) of this chapter for mortality component tables applicable to transactions for which the valuation date falls before May 1, 1989.

(c) * * *

(1) *Regulations sections containing tables with interest rates between 4.2 and 14 percent for valuation dates after April 30, 1989, and before May 1, 1999.* * * *

(2) *Internal Revenue Service publications containing tables with interest rates between 2.2 and 26 percent for valuation dates after April 30, 1989, and before May 1, 1999.* The following publications are no longer available for purchase from the Superintendent of Documents, however, they may be obtained from CC:DOM:CORP:R, room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044:

* * * * *

(iii) Internal Revenue Service Publication 1459, ''Actuarial Values, Gamma Volume,'' (8–89). * * *

(d) *Effective date.* This section applies after April 30, 1989, and before May 1, 1999.

Par. 13. Section 1.7520–1T is added to read as follows:

§ 1.7520–1T Valuation of annuities, unitrust interests, interests for life or terms of years, and remainder or reversionary interests (temporary).

(a) through (b)(1) [Reserved] For further guidance, see § 1.7520–1(a) through (b)(1).

(2) *Mortality component.* The mortality component reflects the mortality data most recently available from the United States census. As new mortality data becomes available after each decennial census, the mortality component described in this section will be revised periodically and the revised mortality component tables will be published in the regulations at that time. For transactions with valuation dates after April 30, 1999, the mortality component table (Table 90CM) is contained in § 20.2031–7T(d)(7) of this chapter. See § 20.2031–7A of this chapter for mortality component tables applicable to transactions for which the valuation date falls before May 1, 1999.

(c) [Reserved]. For further guidance, see § 1.7520–1(c).

(1) *Regulation sections containing tables with interest rates between 4.2 and 14 percent for valuation dates after April 30, 1999.* Section 1.642(c)–6T(e)(6) contains Table S used for determining the present value of a single life remainder interest in a pooled income fund as defined in § 1.642(c)–5. See § 1.642(c)–6A for actuarial factors for one life applicable to valuation dates before May 1, 1999. Section 1.664–4(e)(6) contains Table F (payout factors) and Table D (actuarial factors used in determining the present value of a remainder interest postponed for a term of years). Section1.664–4T(e)(7) contains Table U(1) (actuarial factors for one life). These tables are used in determining the present value of a remainder interest in a charitable remainder unitrust as defined in § 1.664–3. See § 1.664–4A for actuarial factors for one life applicable to valuation dates before May 1, 1999. Section 20.2031–7(d)(6) of this chapter contains Table B (actuarial factors used in determining the present value of an interest for a term of years), Table K (annuity end-of-interval adjustment factors), and Table J (term certain annuity beginning-of-interval adjustment factors). Section 20.2031–7T(d)(7) of this chapter contains Table

S (actuarial factors for one life), and Table 90CM (mortality components). These tables are used in determining the present value of annuities, life estates, remainders, and reversions. See § 20.2031–7A of this chapter for actuarial factors for one life and mortality components applicable to valuation dates before May 1, 1999.

(2) *Internal Revenue Service publications containing tables with interest rates between 2.2 and 26 percent for valuation dates after April 30, 1999.* The following documents are available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402:

(i) Internal Revenue Service Publication 1457, ''Actuarial Values, Book Aleph,'' (1999). This publication includes tables of valuation factors, as well as examples that show how to compute other valuation factors, for determining the present value of annuities, life estates, terms of years, remainders, and reversions, measured by one or two lives. These factors may also be used in the valuation of interests in a charitable remainder annuity trust as defined in § 1.664–2 and a pooled income fund as defined in § 1.642(c)–5.

(ii) Internal Revenue Service Publication 1458, ''Actuarial Values, Book Beth,'' (1999). This publication includes term certain tables and tables of one and two life valuation factors for determining the present value of remainder interests in a charitable remainder unitrust as defined in § 1.664–3.

(iii) Internal Revenue Service Publication 1459, ''Actuarial Values, Book Gimel,'' (1999). This publication includes tables for computing deprecation adjustment factors. See § 1.170A–12T.

(d) *Effective date.* This section applies after April 30, 1999.

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

Par. 14. The authority citation for part 20 is amended by adding entries in numerical order to read in part as follows:

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

Section 20.2031–7T also issued under 26 U.S.C. 7520(c)(2). * * *

Section 20.7520–1T also issued under 26 U.S.C. 7520(c)(2). * * *

Par. 15. Section 20.2031–0 is revised to read as follows:

§ 20.2031–0 Table of contents.

This section lists the section headings and undesignated center headings that appear in the regulations under section 2031.

§ 20.2031–1 Definition of gross estate; valuation of property.
§ 20.2031–2 Valuation of stocks and bonds.
§ 20.2031–3 Valuation of interests in businesses.
§ 20.2031–4 Valuation of notes.
§ 20.2031–5 Valuation of cash on hand or on deposit.
§ 20.2031–6 Valuation of household and personal effects.
§ 20.2031–7 Valuation of annuities, interests for life or term of years, and remainder or reversionary interests.
§ 20.2031–7T Valuation of annuities, interests for life or term of years, and remainder or reversionary interests (temporary).
§ 20.2031–8 Valuation of certain life insurance and annuity contracts; valuation of shares in an open-end investment company.
§ 20.2031–9 Valuation of other property.

Actuarial Tables Applicable Before May 1, 1999

§ 20.2031–7A Valuation of annuities, interests for life or term of years, and remainder or reversionary interests for estates of decedents for which the valuation date of the gross estate is before May 1, 1999.

Par. 16. The undesignated centerheading immediately following § 20.2046–1 is revised to read as follows:

Actuarial Tables Applicable Before May 1, 1999

Par. 17. Section 20.2031–7A is amended by:

1. Revising the section heading.
2. Adding paragraph (e).

The revision and addition read as follows:

§ 20.2031–7A Valuation of annuities, interests for life or term of years, and remainder or reversionary interests for estates of decedents for which the valuation date of the gross estate is before May 1, 1999.

* * * * *

(e) *Valuation of annuities, interests for life or term of years, and remainder or reversionary interests for estates of decedents for which the valuation date of the gross estate is after April 30,1989, and before May 1, 1999*—(1) *In general.* Except as otherwise provided in § 20.2031–7(b) and § 20.7520–3(b) (pertaining to certain limitations on the use of prescribed tables), if the valuation date for the gross estate of the decedent is after April 30, 1989, and before May 1, 1999, the fair market value of annuities, life estates, terms of years, remainders, and reversionary interests is the present value of the interests determined by use of standard or special section 7520 actuarial factors and the valuation methodology described in § 20.2031–7T(d). These factors are derived by using the appropriate section 7520 interest rate and, if applicable, the mortality component for the valuation date of the interest that is being valued. See §§ 20.7520–1 through 20.7520–4. See paragraph (e)(4) of this section for determination of the appropriate table for use in valuing these interests.

(2) *Transitional rule.* (i) If the valuation date is after April 30, 1989, and before June 10, 1994, a taxpayer can rely on Notice 89–24 (1989–1 C.B. 660), or Notice 89–60 (1989–1 C.B. 700). See § 601.601(d)(2)(ii)(*b*) of this chapter.

(ii) If a decedent dies after April 30, 1989, and if on May 1, 1989, the decedent was mentally incompetent so that the disposition of the decedent's property could not be changed, and the decedent dies without having regained competency to dispose of the decedent's property or dies within 90 days of the date on which the decedent first regains competency, the fair market value of annuities, life estates, terms for years, remainders, and reversions included in the gross estate of the decedent is their present value determined either under this section or under the corresponding section applicable at the time the decedent became mentally incompetent, at the option of the decedent's executor. For example, see paragraph (d) of this section.

(3) *Publications and actuarial computations by the Internal Revenue Service.* Many standard actuarial factors not included in paragraph (e)(4) of this section or in § 20.2031–7(d)(6) are included in Internal Revenue Service Publication 1457, ''Actuarial Values, Alpha Volume,'' (8–89). Publication 1457 also includes examples that illustrate how to compute many special factors for more unusual situations. Publication 1457 is no longer available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. However, pertinent factors in this publication may be obtained from: CC:DOM:CORP:R (IRS Publication 1457), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. If a special factor is required in the case of an actual decedent, the Internal Revenue Service may furnish the factor to the executor upon a request for a ruling. The request for a ruling must be accompanied by a recitation of the facts including a statement of the date of birth for each measuring life, the date of the decedent's death, any other applicable dates, and a copy of the will, trust, or other relevant documents. A

request for a ruling must comply with the instructions for requesting a ruling published periodically in the Internal Revenue Bulletin (see §§ 601.201 and 601.601(d)(2)(ii)(*b*) of this chapter) and include payment of the required user fee.

(4) *Actuarial tables.* Except as provided in § 20.7520–3(b) (pertaining to certain limitations on the use of prescribed tables), Life Table 80CNSMT and Table S (Single life remainder factors applicable where the valuation date is after April 30, 1989, and before May 1, 1999), contained in this paragraph (b)(4), and Table B, Table J, and Table K set forth in § 20.2031–7(d)(6) must be used in the application of the provisions of this section when the section 7520 interest rate component is between 4.2 and 14 percent. Table S and Table 80CNSMT are as follows:

Par. 17a. Section 20.2031–7A is further amended by redesignating Table S and Table 80CNSMT in § 20.2031–7(d)(6) as Table S and Table 80CNSMT in § 20.2031–7A(e)(4) and revising the table headings to read as follows:

* * * * *

(e) * * *

(4) * * *

TABLE S.—BASED ON LIFE ON LIFE TABLE 80CNSMT SINGLE LIFE REMAINDER FACTORS

[Applicable After April 30, 1989, and Before May 1, 1999]

* * * * *

TABLE 80CNSMT.—APPLICABLE AFTER APRIL 30, 1989, AND BEFORE MAY 1, 1999

* * * * *

Par. 18. Section 20.2031–7 is amended by:

1. Revising the section heading.

2. Revising paragraphs (c) through (d)(5).

3. Revising paragraph (d)(6) heading and introductory text.

4. Revising paragraph (e).

The revisions read as follows:

§ 20.2031–7 Valuation of annuities, interests for life or term of years, and remainder or reversionary interests.

* * * * *

(c) through (d)(5) [Reserved]. For further guidance, see § 20.2031–7T(c) through (d)(5).

(d)(6) *Actuarial Table B, Table J, and Table K where the valuation date is after April 30, 1989.* Except as provided in § 20.7520–3(b) (pertaining to certain limitations on prescribed tables), the tables in this paragraph (d)(6) and either Table S and Table 80CNSMT in § 20.2031–7A(e)(4) (for valuation dates after April 30, 1989, and before May 1, 1999), or Table S and Table 90CM in § 20.2031–7T(d)(7) (for valuation dates after May 1, 1999) must be used in the application of the provisions of this section when the section 7520 interest rate component is between 4.2 and 14 percent.

* * * * *

(e) *Effective date.* This section applies after April 30, 1989, and before May 1, 1999.

Par. 19. Section 20.2031–7T is added to read as follows:

§ 20.2031–7T Valuation of annuities, interests for life or term of years, and remainder or reversionary interests (temporary).

(a) through (b) [Reserved]. For further information see § 20.2031–7(a) through (b).

(c) *Actuarial valuations.* The present value of annuities, life estates, terms of years, remainders, and reversions for estates of decedents for which the valuation date of the gross estate is after April 30, 1999, is determined under paragraph (d) of this section. The present value of annuities, life estates, terms of years, remainders, and reversions for estates of decedents for which the valuation date of the gross estate is before May 1, 1999, is determined under the following sections:

Valuation date	Applicable	
	After	Before section
	01–01–52	20.2031–7A(a).
12–31–51 ...	01–01–71	20.2031–7A(b).
12–31–70 ...	12–01–83	20.2031–7A(c).
11–30–83 ...	05–01–89	20.2031–7A(d).
04–30–89 ...	05–01–99	20.2031–7A(e).

(d) *Actuarial valuations after April 30, 1999*—(1) *In general.* Except as otherwise provided in paragraph (b) of this section and § 20.7520–3(b) (pertaining to certain limitations on the use of prescribed tables), if the valuation date for the gross estate of the decedent is after April 30, 1999, the fair market value of annuities, life estates, terms of years, remainders, and reversionary interests is the present value determined by use of standard or special section 7520 actuarial factors. These factors are derived by using the appropriate section 7520 interest rate and, if applicable, the mortality component for the valuation date of the interest that is being valued. See §§ 20.7520–1 through 20.7520–4.

(2) *Specific interests*—(i) *Charitable remainder trusts.* The fair market value of a remainder interest in a pooled income fund, as defined in § 1.642(c)–5 of this chapter, is its value determined under § 1.642(c)–6T(e) of this chapter. The fair market value of a remainder interest in a charitable remainder annuity trust, as defined in § 1.664–2(a) of this chapter, is the present value determined under § 1.664–2(c) of this chapter. The fair market value of a remainder interest in a charitable remainder unitrust, as defined in § 1.664–3 of this chapter, is its present value determined under § 1.664–4T(e) of this chapter. The fair market value of a life interest or term of years in a charitable remainder unitrust is the fair market value of the property as of the date of valuation less the fair market value of the remainder interest on that date determined under § 1.664–4T(e)(4) and (5) of this chapter.

(ii) *Ordinary remainder and reversionary interests.* If the interest to be valued is to take effect after a definite number of years or after the death of one individual, the present value of the interest is computed by multiplying the value of the property by the appropriate remainder interest actuarial factor (that corresponds to the applicable section 7520 interest rate and remainder interest period) in Table B (for a term certain) or the appropriate Table S (for one measuring life), as the case may be. Table B is contained in § 20.2031–7(d)(6) and Table S (for one measuring life when the valuation date is after April 30, 1999) is contained in paragraph (d)(7) of this section and in Internal Revenue Service Publication 1457. For information about obtaining actuarial factors for other types of remainder interests, see paragraph (d)(4) of this section.

(iii) *Ordinary term-of-years and life interests.* If the interest to be valued is the right of a person to receive the income of certain property, or to use certain nonincome-producing property, for a term of years or for the life of one individual, the present value of the interest is computed by multiplying the value of the property by the appropriate term-of-years or life interest actuarial factor (that corresponds to the applicable section 7520 interest rate and term-of-years or life interest period). Internal Revenue Service Publication 1457 includes actuarial factors for an interest for a term of years in Table B and for the life of one individual in Table S (for one measuring life when the valuation date is after April 30, 1999). However, term-of-years and life interest actuarial factors are not included in Table B in § 20.2031–7(d)(6) or Table S in paragraph (d)(7) of this section. If Internal Revenue Service Publication

1457 (or any other reliable source of term-of-years and life interest actuarial factors) is not conveniently available, an actuarial factor for the interest may be derived mathematically. This actuarial factor may be derived by subtracting the correlative remainder factor (that corresponds to the applicable section 7520 interest rate and the term of years or the life) in Table B (for a term of years) in § 20.2031–7(d)(6) or in Table S (for the life of one individual) in paragraph (d)(7) of this section, as the case may be, from 1.000000. For information about obtaining actuarial factors for other types of term-of-years and life interests, see paragraph (d)(4) of this section.

(iv) *Annuities.* (A) If the interest to be valued is the right of a person to receive an annuity that is payable at the end of each year for a term of years or for the life of one individual, the present value of the interest is computed by multiplying the aggregate amount payable annually by the appropriate annuity actuarial factor (that corresponds to the applicable section 7520 interest rate and annuity period). Internal Revenue Publication 1457 includes actuarial factors in Table B (for an annuity payable for a term of years) and in Table S (for an annuity payable for the life of one individual when the valuation date is after April 30, 1999). However, annuity actuarial factors are not included in Table B in § 20.2031–7(d)(6) or Table S in paragraph (d)(7) of this section. If Internal Revenue Service Publication 1457 (or any other reliable source of annuity actuarial factors) is not conveniently available, a required annuity factor for a term of years or for one life may be mathematically derived. This annuity factor may be derived by subtracting the applicable remainder factor (that corresponds to the applicable section 7520 interest rate and annuity period) in Table B (in the case of a term-of-years annuity) in § 20.2031–7(d)(6) or in Table S (in the case of a one-life annuity when the valuation date is after April 30, 1999) in paragraph (d)(7) of this section, as the case may be, from 1.000000 and then dividing the result by the applicable section 7520 interest rate expressed as a decimal number.

(B) If the annuity is payable at the end of semiannual, quarterly, monthly, or weekly periods, the product obtained by multiplying the annuity factor by the aggregate amount payable annually is then multiplied by the applicable adjustment factor as contained in Table K in § 20.2031–7(d)(6) for payments made at the end of the specified periods. The provisions of this paragraph (d)(2)(iv)(B) are illustrated by the following example:

Example. At the time of the decedent's death, the survivor/annuitant, age 72, is entitled to receive an annuity of $15,000 a year for life payable in equal monthly installments at the end of each period. The section 7520 rate for the month in which the decedent died is 9.6 percent. Under Table S in paragraph (d)(7) of this section, the remainder factor at 9.6 percent for an individual aged 72 is .38438. By converting the remainder factor to an annuity factor, as described above, the annuity factor at 9.6 percent for an individual aged 72 is 6.4127 (1.00000 minus .38438, divided by .096). Under Table K in § 20.2031–7(d)(6), the adjustment factor under the column for payments made at the end of each monthly period at the rate of 9.6 percent is 1.0433. The aggregate annual amount, $15,000, is multiplied by the factor 6.4127 and the product multiplied by 1.0433. The present value of the annuity at the date of the decedent's death is, therefore, $100,355.55 ($15,000 x 6.4127 x 1.0433).

(C) If an annuity is payable at the beginning of annual, semiannual, quarterly, monthly, or weekly periods for a term of years, the value of the annuity is computed by multiplying the aggregate amount payable annually by the annuity factor described in paragraph (d)(2)(iv)(A) of this section; and the product so obtained is then multiplied by the adjustment factor in Table J in § 20.2031–7(d)(6) at the appropriate interest rate component for payments made at the beginning of specified periods. If an annuity is payable at the beginning of annual, semiannual, quarterly, monthly, or weekly periods for one or more lives, the value of the annuity is the sum of the first payment plus the present value of a similar annuity, the first payment of which is not to be made until the end of the payment period, determined as provided in this paragraph (d)(2)(iv).

(v) *Annuity and unitrust interests for a term of years or until the prior death of an individual.* See § 25.2512–5T(d)(2)(v) of this chapter for examples explaining how to compute the present value of an annuity or unitrust interest that is payable until the earlier of the lapse of a specific number of years or the death of an individual.

(3) *Transitional rule.* (i) If a decedent dies after April 30, 1999, and if on May 1, 1999, the decedent was mentally incompetent so that the disposition of the decedent's property could not be changed, and the decedent dies without having regained competency to dispose of the decedent's property or dies within 90 days of the date on which the decedent first regains competency, the fair market value of annuities, life estates, terms for years, remainders, and reversions included in the gross estate of the decedent is their present value determined either under this section or under the corresponding section applicable at the time the decedent became mentally incompetent, at the option of the decedent's executor. For example, see § 20.2031–7A(e)(2).

(ii) If a decedent dies after April 30, 1999, and before July 1, 1999, the fair market value of annuities, life estates, remainders, and reversions based on one or more measuring lives included in the gross estate of the decedent is their present value determined under this section by use of the section 7520 interest rate for the month in which the valuation date occurs (See §§ 20.7520–1(b) and 20.7520–2(a)(2)) and the appropriate actuarial tables under either paragraph (d)(7) of this section or § 20.2031–7A(e)(4), at the option of the decedent's executor.

(iii) For purposes of paragraphs (d)(3)(i) and (ii) of this section, where the decedent's executor is given the option to use the appropriate actuarial tables under either paragraph (d)(7) of this section or § 20.2031–7A(e)(4), the decedent's executor must use the same actuarial table with respect to each individual transaction and with respect to all transfers occurring on the valuation date (e.g., gift and income tax charitable deductions with respect to the same transfer must be determined based on the same tables, and all assets includible in the gross estate and/or estate tax deductions claimed must be valued based on the same tables).

(4) *Publications and actuarial computations by the Internal Revenue Service.* Many standard actuarial factors not included in § 20.2031–7(d)(6) or in paragraph (d)(7) of this section are included in Internal Revenue Service Publication 1457, ''Actuarial Values, Book Aleph,'' (1999). Publication 1457 also includes examples that illustrate how to compute many special factors for more unusual situations. A copy of this publication is available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. If a special factor is required in the case of an actual decedent, the Internal Revenue Service may furnish the factor to the executor upon a request for a ruling. The request for a ruling must be accompanied by a recitation of the facts including a statement of the date of birth for each measuring life, the date of the decedent's death, any other applicable dates, and a copy of the will, trust, or other relevant documents. A request for a ruling must comply with the instructions for requesting a ruling published periodically in the Internal

Revenue Bulletin (see §§ 601.201 and 601.601(d)(2)(ii)(*b*) of this chapter) and include payment of the required user fee.

(5) *Examples.* The provisions of this section are illustrated by the following examples:

Example 1. Remainder payable at an individual's death. The decedent, or the decedent's estate, was entitled to receive certain property worth $50,000 upon the death of A, to whom the income was bequeathed for life. At the time of the decedent's death, A was 47 years 5 months old. In the month in which the decedent died, the section 7520 rate was 9.8 percent. Under Table S in paragraph (d)(7) of this section, the remainder factor at 9.8 percent for determining the present value of the remainder interest due at the death of a person aged 47, the number of years nearest A's actual age at the decedent's death, is .10317. The present value of the remainder interest at the date of the decedent's death is, therefore, $5,158.50 ($50,000 × .10317).

Example 2. Income payable for an individual's life. A's parent bequeathed an income interest in property to A for life, with the remainder interest passing to B at A's death. At the time of the parent's death, the value of the property was $50,000 and A was 30 years 10 months old. The section 7520 rate at the time of the parent's death was 10.2 percent. Under Table S in paragraph (d)(7) of this section, the remainder factor at 10.2 percent for determining the present value of the remainder interest due at the death of a person aged 31, the number of years closest to A's age at the decedent's death, is .03583. Converting this remainder factor to an income factor, as described in paragraph (d)(2)(iii) of this section, the factor for determining the present value of an income interest for the life of a person aged 31 is .96417. The present value of A's interest at the time of the parent's death is, therefore, $48,208.50 ($50,000 × .96417).

Example 3. Annuity payable for an individual's life. A purchased an annuity for the benefit of both A and B. Under the terms of the annuity contract, at A's death, a survivor annuity of $10,000 a year payable in equal semiannual installments made at the end of each interval is payable to B for life. At A's death, B was 45 years 7 months old. Also, at A's death, the section 7520 rate was 9.6 percent. Under Table S in paragraph (d)(7) of this section, the factor at 9.6 percent for determining the present value of the remainder interest at the death of a person age 46 (the number of years nearest B's actual age) is .10013. By converting the factor to an annuity factor, as described in paragraph (d)(2)(iv)(A) of this section, the factor for the present value of an annuity payable until the death of a person age 46 is 9.3736 (1.00000 minus .10013, divided by .096). The adjustment factor from Table K in § 20.2031–7(d)(6) at an interest rate of 9.6 percent for semiannual annuity payments made at the end of the period is 1.0235. The present value of the annuity at the date of A's death is, therefore, $95,938.80 ($10,000 × 9.3736 × 1.0235).

Example 4. Annuity payable for a term of years. The decedent, or the decedent's estate, was entitled to receive an annuity of $10,000 a year payable in equal quarterly installments at the end of each quarter throughout a term certain. At the time of the decedent's death, the section 7520 rate was 9.8 percent. A quarterly payment had just been made prior to the decedent's death and payments were to continue for 5 more years. Under Table B in § 20.2031–7(d)(6) for the interest rate of 9.8 percent, the factor for the present value of a remainder interest due after a term of 5 years is .626597. Converting the factor to an annuity factor, as described in paragraph (d)(2)(iv)(A) of this section, the factor for the present value of an annuity for a term of 5 years is 3.8102. The adjustment factor from Table K in § 20.2031–7(d)(6) at an interest rate of 9.8 percent for quarterly annuity payments made at the end of the period is 1.0360. The present value of the annuity is, therefore, $39,473.67 ($10,000 × 3.8102 × 1.0360).

(6) [Reserved]. For further guidance, see § 20.2031–7(d)(6).

(7) *Actuarial Table S and Table 90CM where the valuation date is after April 30, 1999.* Except as provided in § 20.7520–2(b) (pertaining to certain limitations on the use of prescribed tables), the following Table 90CM and Table S (single life remainder factors applicable where the valuation date is after April 30, 1999) and Table B, Table J, and Table K contained in § 20.2031–7(d)(6), must be used in the application of the provisions of this section when the section 7520 interest rate component is between 4.2 and 14 percent.

TABLE S.—SINGLE LIFE REMAINDER FACTORS APPLICABLE AFTER APRIL 30, 1999 BASED ON LIFE TABLE 90CM

[Interest rate]

Age	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
0	.06752	.06130	.05586	.05109	.04691	.04322	.03998	.03711	.03458	.03233
1	.06137	.05495	.04932	.04438	.04003	.03620	.03283	.02985	.02721	.02487
2	.06325	.05667	.05088	.04580	.04132	.03737	.03388	.03079	.02806	.02563
3	.06545	.05869	.05275	.04752	.04291	.03883	.03523	.03203	.02920	.02668
4	.06784	.06092	.05482	.04944	.04469	.04048	.03676	.03346	.03052	.02791
5	.07040	.06331	.05705	.05152	.04662	.04229	.03845	.03503	.03199	.02928
6	.07310	.06583	.05941	.05372	.04869	.04422	.04025	.03672	.03357	.03076
7	.07594	.06849	.06191	.05607	.05089	.04628	.04219	.03854	.03528	.03236
8	.07891	.07129	.06453	.05853	.05321	.04846	.04424	.04046	.03709	.03407
9	.08203	.07423	.06731	.06115	.05567	.05079	.04643	.04253	.03904	.03592
10	.08532	.07734	.07024	.06392	.05829	.05326	.04877	.04474	.04114	.03790
11	.08875	.08059	.07331	.06683	.06104	.05587	.05124	.04709	.04336	.04002
12	.09233	.08398	.07653	.06989	.06394	.05862	.05385	.04957	.04572	.04226
13	.09601	.08748	.07985	.07304	.06693	.06146	.05655	.05214	.04816	.04458
14	.09974	.09102	.08322	.07624	.06997	.06435	.05929	.05474	.05064	.04694
15	.10350	.09460	.08661	.07946	.07303	.06725	.06204	.05735	.05312	.04930
16	.10728	.09818	.09001	.08268	.07608	.07014	.06479	.05996	.05559	.05164
17	.11108	.10179	.09344	.08592	.07916	.07306	.06755	.06257	.05807	.05399
18	.11494	.10545	.09691	.08921	.08227	.07601	.07034	.06521	.06057	.05636
19	.11889	.10921	.10047	.09259	.08548	.07904	.07322	.06794	.06315	.05880
20	.12298	.11310	.10417	.09610	.08881	.08220	.07622	.07078	.06584	.06135
21	.12722	.11713	.10801	.09976	.09228	.08550	.07935	.07375	.06866	.06403
22	.13159	.12130	.11199	.10354	.09588	.08893	.08260	.07685	.07160	.06682
23	.13613	.12563	.11612	.10748	.09964	.09250	.08601	.08009	.07468	.06975
24	.14084	.13014	.12043	.11160	.10357	.09625	.08958	.08349	.07793	.07284
25	.14574	.13484	.12493	.11591	.10768	.10018	.09334	.08708	.08135	.07611
26	.15084	.13974	.12963	.12041	.11199	.10431	.09728	.09085	.08496	.07956
27	.15615	.14485	.13454	.12513	.11652	.10865	.10144	.09484	.08878	.08322
28	.16166	.15016	.13965	.13004	.12124	.11319	.10580	.09901	.09279	.08706
29	.16737	.15567	.14497	.13516	.12617	.11792	.11035	.10339	.09699	.09109

Age	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
30	.17328	.16138	.15048	.14047	.13129	.12286	.11510	.10796	.10138	.09532
31	.17938	.16728	.15618	.14599	.13661	.12799	.12004	.11272	.10597	.09974
32	.18568	.17339	.16210	.15171	.14214	.13333	.12520	.11769	.11076	.10435
33	.19220	.17972	.16824	.15766	.14790	.13889	.13058	.12289	.11578	.10920
34	.19894	.18627	.17460	.16383	.15388	.14468	.13618	.12831	.12102	.11426
35	.20592	.19307	.18121	.17025	.16011	.15073	.14204	.13399	.12652	.11958
36	.21312	.20010	.18805	.17691	.16658	.15701	.14814	.13990	.13225	.12514
37	.22057	.20737	.19514	.18382	.17331	.16356	.15450	.14608	.13825	.13096
38	.22827	.21490	.20251	.19100	.18031	.17038	.16113	.15253	.14452	.13705
39	.23623	.22270	.21013	.19845	.18759	.17747	.16805	.15927	.15108	.14344
40	.24446	.23078	.21805	.20620	.19516	.18487	.17527	.16631	.15795	.15013
41	.25298	.23915	.22626	.21425	.20305	.19259	.18282	.17368	.16514	.15715
42	.26178	.24782	.23478	.22262	.21125	.20062	.19069	.18138	.17267	.16450
43	.27087	.25678	.24360	.23129	.21977	.20898	.19888	.18941	.18053	.17220
44	.28025	.26603	.25273	.24027	.22860	.21766	.20740	.19777	.18873	.18023
45	.28987	.27555	.26212	.24953	.23772	.22664	.21622	.20644	.19724	.18858
46	.29976	.28533	.27179	.25908	.24714	.23591	.22536	.21542	.20606	.19725
47	.30987	.29535	.28171	.26889	.25682	.24546	.23476	.22468	.21518	.20621
48	.32023	.30563	.29190	.27897	.26678	.25530	.24447	.23425	.22460	.21549
49	.33082	.31615	.30234	.28931	.27702	.26543	.25447	.24412	.23434	.22509
50	.34166	.32694	.31306	.29995	.28756	.27586	.26479	.25432	.24441	.23502
51	.35274	.33798	.32404	.31085	.29838	.28658	.27541	.26482	.25479	.24528
52	.36402	.34924	.33525	.32200	.30946	.29757	.28630	.27561	.26547	.25584
53	.37550	.36070	.34668	.33339	.32078	.30882	.29746	.28667	.27643	.26669
54	.38717	.37237	.35833	.34500	.33234	.32031	.30888	.29801	.28766	.27782
55	.39903	.38424	.37019	.35683	.34413	.33205	.32056	.30961	.29918	.28925
56	.41108	.39631	.38227	.36890	.35617	.34405	.33250	.32149	.31099	.30097
57	.42330	.40857	.39455	.38118	.36844	.35629	.34469	.33363	.32306	.31297
58	.43566	.42098	.40699	.39364	.38089	.36873	.35710	.34600	.33538	.32522
59	.44811	.43351	.41956	.40623	.39350	.38133	.36968	.35855	.34789	.33768
60	.46066	.44613	.43224	.41896	.40624	.39408	.38243	.37127	.36058	.35033
61	.47330	.45887	.44505	.43182	.41914	.40699	.39535	.38418	.37347	.36318
62	.48608	.47175	.45802	.44485	.43223	.42011	.40848	.39732	.38660	.37629
63	.49898	.48478	.47115	.45807	.44550	.43343	.42184	.41069	.39997	.38966
64	.51200	.49793	.48442	.47143	.45895	.44694	.43539	.42427	.41357	.40326
65	.52512	.51121	.49782	.48495	.47255	.46062	.44912	.43805	.42738	.41709
66	.53835	.52461	.51137	.49862	.48634	.47449	.46307	.45206	.44143	.43118
67	.55174	.53818	.52511	.51250	.50034	.48860	.47727	.46633	.45576	.44556
68	.56524	.55188	.53899	.52654	.51452	.50291	.49168	.48083	.47034	.46020
69	.57882	.56568	.55299	.54071	.52885	.51737	.50627	.49552	.48513	.47506
70	.59242	.57951	.56703	.55495	.54325	.53193	.52096	.51034	.50004	.49007
71	.60598	.59332	.58106	.56918	.55767	.54651	.53569	.52520	.51503	.50516
72	.61948	.60707	.59504	.58338	.57206	.56108	.55043	.54009	.53004	.52029
73	.63287	.62073	.60895	.59751	.58640	.57561	.56513	.55495	.54505	.53543
74	.64621	.63435	.62282	.61162	.60073	.59015	.57985	.56984	.56009	.55061
75	.65953	.64796	.63671	.62575	.61510	.60473	.59463	.58480	.57523	.56591
76	.67287	.66160	.65063	.63995	.62954	.61940	.60952	.59989	.59050	.58135
77	.68622	.67526	.66459	.65419	.64404	.63415	.62450	.61509	.60590	.59694
78	.69954	.68892	.67856	.66845	.65858	.64895	.63955	.63036	.62140	.61264
79	.71278	.70250	.69246	.68265	.67308	.66372	.65457	.64563	.63690	.62836
80	.72581	.71588	.70618	.69668	.68740	.67833	.66945	.66077	.65227	.64396
81	.73857	.72899	.71962	.71045	.70147	.69268	.68408	.67566	.66741	.65933
82	.75101	.74178	.73274	.72389	.71522	.70672	.69840	.69024	.68225	.67441
83	.76311	.75423	.74553	.73700	.72864	.72044	.71240	.70451	.69678	.68919
84	.77497	.76645	.75809	.74988	.74183	.73393	.72618	.71857	.71110	.70377
85	.78665	.77848	.77047	.76260	.75487	.74728	.73982	.73250	.72530	.71823
86	.79805	.79025	.78258	.77504	.76764	.76036	.75320	.74617	.73925	.73245
87	.80904	.80159	.79427	.78706	.77998	.77301	.76615	.75940	.75277	.74624
88	.81962	.81251	.80552	.79865	.79188	.78521	.77865	.77220	.76584	.75958
89	.82978	.82302	.81636	.80980	.80335	.79699	.79072	.78455	.77847	.77248
90	.83952	.83309	.82676	.82052	.81437	.80831	.80234	.79645	.79064	.78492
91	.84870	.84260	.83658	.83064	.82479	.81902	.81332	.80771	.80217	.79671
92	.85716	.85136	.84563	.83998	.83441	.82891	.82348	.81812	.81283	.80761
93	.86494	.85942	.85396	.84858	.84326	.83801	.83283	.82771	.82266	.81767
94	.87216	.86690	.86170	.85657	.85149	.84648	.84153	.83664	.83181	.82704
95	.87898	.87397	.86902	.86412	.85928	.85450	.84977	.84510	.84049	.83592
96	.88537	.88060	.87587	.87121	.86659	.86203	.85751	.85305	.84864	.84427
97	.89127	.88672	.88221	.87775	.87335	.86898	.86467	.86040	.85618	.85200
98	.89680	.89245	.88815	.88389	.87968	.87551	.87138	.86730	.86326	.85926
99	.90217	.89803	.89393	.88987	.88585	.88187	.87793	.87402	.87016	.86633
100	.90738	.90344	.89953	.89567	.89183	.88804	.88428	.88056	.87687	.87322
101	.91250	.90876	.90504	.90137	.89772	.89412	.89054	.88699	.88348	.88000
102	.91751	.91396	.91045	.90696	.90350	.90007	.89668	.89331	.88997	.88666
103	.92247	.91912	.91579	.91249	.90922	.90598	.90276	.89957	.89640	.89326

Age	4.2%	4.4%	4.6%	4.8%	5.0%	5.2%	5.4%	5.6%	5.8%	6.0%
104	.92775	.92460	.92148	.91839	.91532	.91227	.90924	.90624	.90326	.90031
105	.93290	.92996	.92704	.92415	.92127	.91841	.91558	.91276	.90997	.90719
106	.93948	.93680	.93415	.93151	.92889	.92628	.92370	.92113	.91857	.91604
107	.94739	.94504	.94271	.94039	.93808	.93579	.93351	.93124	.92899	.92675
108	.95950	.95767	.95585	.95404	.95224	.95045	.94867	.94689	.94512	.94336
109	.97985	.97893	.97801	.97710	.97619	.97529	.97438	.97348	.97259	.97170

Age	6.2%	6.4%	6.6%	6.8%	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%
0	.03034	.02857	.02700	.02559	.02433	.02321	.02220	.02129	.02047	.01973
1	.02279	.02094	.01929	.01782	.01650	.01533	.01427	.01331	.01246	.01168
2	.02347	.02155	.01983	.01829	.01692	.01569	.01458	.01358	.01268	.01187
3	.02444	.02243	.02065	.01905	.01761	.01632	.01516	.01412	.01317	.01232
4	.02558	.02349	.02163	.01996	.01846	.01712	.01590	.01481	.01382	.01292
5	.02686	.02469	.02275	.02101	.01945	.01804	.01677	.01562	.01458	.01364
6	.02825	.02600	.02398	.02217	.02053	.01906	.01773	.01653	.01544	.01445
7	.02976	.02742	.02532	.02343	.02172	.02019	.01880	.01754	.01640	.01536
8	.03137	.02894	.02675	.02479	.02301	.02140	.01995	.01864	.01744	.01635
9	.03311	.03059	.02832	.02627	.02442	.02274	.02122	.01985	.01859	.01745
10	.03499	.03237	.03001	.02788	.02595	.02420	.02262	.02118	.01987	.01867
11	.03700	.03428	.03183	.02961	.02760	.02578	.02413	.02262	.02125	.02000
12	.03913	.03632	.03377	.03146	.02937	.02748	.02575	.02418	.02275	.02144
13	.04135	.03843	.03579	.03339	.03122	.02924	.02744	.02580	.02431	.02294
14	.04359	.04057	.03783	.03534	.03308	.03102	.02915	.02744	.02587	.02444
15	.04584	.04270	.03986	.03728	.03493	.03279	.03083	.02905	.02742	.02593
16	.04806	.04482	.04187	.03919	.03674	.03452	.03248	.03063	.02892	.02736
17	.05029	.04692	.04387	.04108	.03855	.03623	.03411	.03218	.03040	.02877
18	.05253	.04905	.04588	.04299	.04036	.03795	.03574	.03373	.03187	.03017
19	.05484	.05124	.04796	.04496	.04222	.03972	.03742	.03532	.03339	.03161
20	.05726	.05354	.05013	.04702	.04418	.04158	.03919	.03700	.03498	.03313
21	.05980	.05595	.05242	.04920	.04625	.04354	.04105	.03877	.03667	.03473
22	.06246	.05847	.05482	.05147	.04841	.04559	.04301	.04063	.03844	.03642
23	.06524	.06112	.05734	.05387	.05069	.04777	.04508	.04260	.04032	.03821
24	.06819	.06392	.06001	.05642	.05312	.05008	.04728	.04470	.04232	.04012
25	.07131	.06690	.06285	.05913	.05570	.05255	.04964	.04695	.04447	.04218
26	.07460	.07005	.06586	.06200	.05845	.05518	.05215	.04936	.04677	.04438
27	.07810	.07340	.06907	.06508	.06140	.05800	.05485	.05195	.04925	.04676
28	.08179	.07693	.07246	.06833	.06451	.06098	.05772	.05469	.05189	.04929
29	.08566	.08065	.07603	.07176	.06780	.06414	.06075	.05761	.05469	.05198
30	.08973	.08456	.07978	.07536	.07127	.06748	.06396	.06069	.05766	.05483
31	.09398	.08865	.08372	.07915	.07491	.07098	.06733	.06394	.06078	.05785
32	.09843	.09294	.08785	.08313	.07875	.07468	.07089	.06737	.06409	.06103
33	.10310	.09745	.09220	.08732	.08279	.07858	.07466	.07100	.06759	.06441
34	.10799	.10217	.09676	.09173	.08705	.08269	.07862	.07483	.07129	.06798
35	.11314	.10715	.10157	.09638	.09155	.08704	.08283	.07890	.07522	.07179
36	.11852	.11236	.10662	.10127	.09628	.09162	.08726	.08319	.07938	.07581
37	.12416	.11783	.11193	.10641	.10126	.09645	.09194	.08772	.08377	.08006
38	.13009	.12359	.11751	.11183	.10652	.10155	.09689	.09253	.08843	.08459
39	.13629	.12962	.12338	.11753	.11206	.10693	.10212	.09761	.09337	.08938
40	.14281	.13597	.12955	.12355	.11791	.11262	.10766	.10299	.09860	.09447
41	.14966	.14264	.13606	.12989	.12409	.11864	.11352	.10870	.10417	.09989
42	.15685	.14966	.14291	.13657	.13061	.12500	.11972	.11475	.11006	.10564
43	.16437	.15702	.15010	.14360	.13747	.13171	.12627	.12115	.11631	.11174
44	.17224	.16472	.15764	.15098	.14469	.13876	.13317	.12789	.12290	.11819
45	.18042	.17274	.16550	.15867	.15223	.14615	.14040	.13496	.12982	.12496
46	.18893	.18110	.17370	.16671	.16011	.15387	.14796	.14238	.13708	.13207
47	.19775	.18975	.18220	.17505	.16830	.16190	.15584	.15010	.14466	.13950
48	.20688	.19873	.19102	.18373	.17682	.17027	.16406	.15817	.15258	.14727
49	.21633	.20804	.20018	.19274	.18568	.17898	.17262	.16658	.16084	.15539
50	.22612	.21769	.20969	.20210	.19490	.18805	.18155	.17536	.16948	.16388
51	.23625	.22769	.21955	.21182	.20448	.19749	.19084	.18452	.17849	.17275
52	.24669	.23799	.22973	.22186	.21438	.20726	.20047	.19400	.18784	.18196
53	.25742	.24861	.24022	.23222	.22461	.21735	.21043	.20383	.19753	.19151
54	.26845	.25952	.25101	.24290	.23516	.22777	.22072	.21399	.20756	.20140
55	.27978	.27074	.26212	.25389	.24604	.23853	.23136	.22450	.21793	.21166
56	.29140	.28227	.27355	.26522	.25725	.24963	.24233	.23535	.22867	.22227
57	.30333	.29411	.28529	.27686	.26879	.26106	.25365	.24656	.23976	.23324
58	.31551	.30621	.29731	.28878	.28061	.27278	.26528	.25807	.25116	.24453
59	.32790	.31854	.30956	.30095	.29269	.28477	.27716	.26986	.26284	.25610
60	.34050	.33107	.32202	.31334	.30500	.29699	.28929	.28190	.27478	.26794
61	.35331	.34384	.33473	.32598	.31757	.30948	.30170	.29422	.28701	.28007
62	.36639	.35688	.34772	.33892	.33044	.32229	.31443	.30687	.29958	.29255
63	.37974	.37020	.36101	.35216	.34363	.33542	.32750	.31986	.31250	.30539
64	.39334	.38378	.37456	.36568	.35711	.34884	.34087	.33317	.32574	.31857

Age	6.2%	6.4%	6.6%	6.8%	7.0%	7.2%	7.4%	7.6%	7.8%	8.0%
65	.40718	.39761	.38838	.37947	.37087	.36257	.35455	.34681	.33932	.33208
66	.42128	.41172	.40249	.39357	.38496	.37663	.36858	.36079	.35326	.34597
67	.43569	.42616	.41694	.40803	.39941	.39107	.38299	.37518	.36761	.36028
68	.45038	.44089	.43170	.42281	.41419	.40585	.39777	.38994	.38235	.37499
69	.46531	.45587	.44672	.43786	.42927	.42094	.41286	.40503	.39743	.39006
70	.48040	.47103	.46194	.45312	.44456	.43626	.42820	.42038	.41278	.40540
71	.49558	.48629	.47727	.46851	.46000	.45174	.44371	.43591	.42832	.42095
72	.51082	.50162	.49268	.48399	.47554	.46733	.45934	.45157	.44401	.43666
73	.52607	.51697	.50813	.49952	.49114	.48299	.47506	.46733	.45981	.45249
74	.54139	.53241	.52367	.51515	.50686	.49879	.49092	.48325	.47578	.46849
75	.55683	.54798	.53936	.53095	.52276	.51477	.50698	.49938	.49197	.48474
76	.57243	.56373	.55524	.54696	.53888	.53100	.52330	.51579	.50846	.50130
77	.58819	.57965	.57132	.56318	.55523	.54747	.53988	.53247	.52523	.51815
78	.60408	.59572	.58755	.57957	.57177	.56414	.55668	.54939	.54225	.53527
79	.62001	.61184	.60385	.59604	.58840	.58092	.57360	.56644	.55943	.55256
80	.63582	.62786	.62007	.61244	.60497	.59765	.59048	.58347	.57659	.56985
81	.65142	.64367	.63608	.62864	.62135	.61421	.60721	.60034	.59361	.58701
82	.66673	.65920	.65182	.64458	.63748	.63052	.62368	.61698	.61041	.60395
83	.68175	.67444	.66728	.66024	.65334	.64656	.63991	.63338	.62696	.62066
84	.69657	.68950	.68256	.67574	.66904	.66246	.65599	.64964	.64340	.63727
85	.71128	.70446	.69775	.69116	.68467	.67830	.67204	.66587	.65982	.65386
86	.72576	.71919	.71272	.70636	.70010	.69394	.68789	.68193	.67606	.67029
87	.73981	.73349	.72726	.72114	.71511	.70917	.70333	.69757	.69190	.68632
88	.75342	.74735	.74137	.73548	.72968	.72396	.71833	.71279	.70732	.70194
89	.76658	.76076	.75503	.74938	.74381	.73832	.73290	.72757	.72231	.71712
90	.77928	.77371	.76823	.76281	.75748	.75221	.74702	.74190	.73684	.73186
91	.79131	.78600	.78075	.77557	.77046	.76542	.76044	.75553	.75068	.74589
92	.80246	.79737	.79235	.78740	.78250	.77767	.77290	.76818	.76353	.75893
93	.81274	.80788	.80307	.79832	.79363	.78899	.78441	.77989	.77542	.77100
94	.82232	.81766	.81306	.80850	.80401	.79956	.79517	.79082	.78653	.78228
95	.83141	.82695	.82254	.81818	.81387	.80961	.80539	.80122	.79710	.79302
96	.83996	.83569	.83147	.82729	.82316	.81907	.81503	.81103	.80707	.80315
97	.84787	.84378	.83973	.83573	.83176	.82784	.82396	.82012	.81632	.81255
98	.85530	.85138	.84750	.84366	.83985	.83609	.83236	.82867	.82502	.82140
99	.86255	.85880	.85508	.85140	.84776	.84415	.84057	.83703	.83353	.83005
100	.86960	.86601	.86246	.85894	.85546	.85200	.84858	.84519	.84183	.83849
101	.87655	.87313	.86974	.86638	.86305	.85975	.85648	.85324	.85003	.84684
102	.88338	.88012	.87689	.87369	.87052	.86738	.86426	.86116	.85809	.85505
103	.89015	.88706	.88399	.88095	.87793	.87494	.87197	.86903	.86611	.86321
104	.89737	.89446	.89157	.88871	.88586	.88304	.88024	.87745	.87469	.87195
105	.90443	.90170	.89898	.89628	.89360	.89094	.88830	.88568	.88307	.88049
106	.91351	.91101	.90852	.90605	.90359	.90115	.89873	.89632	.89392	.89154
107	.92452	.92230	.92010	.91791	.91573	.91356	.91141	.90927	.90714	.90502
108	.94161	.93987	.93814	.93641	.93469	.93298	.93128	.92958	.92790	.92622
109	.97081	.96992	.96904	.96816	.96729	.96642	.96555	.96468	.96382	.96296

Age	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
0	.01906	.01845	.01790	.01740	.01694	.01652	.01613	.01578	.01546	.01516
1	.01098	.01034	.00977	.00924	.00876	.00833	.00793	.00756	.00722	.00691
2	.01113	.01046	.00986	.00930	.00880	.00834	.00791	.00753	.00717	.00684
3	.01155	.01084	.01020	.00962	.00909	.00860	.00816	.00775	.00737	.00702
4	.01211	.01137	.01069	.01008	.00952	.00900	.00853	.00810	.00770	.00733
5	.01279	.01201	.01130	.01065	.01006	.00952	.00902	.00856	.00814	.00775
6	.01356	.01274	.01199	.01131	.01068	.01011	.00959	.00910	.00865	.00824
7	.01442	.01356	.01277	.01205	.01140	.01079	.01023	.00972	.00925	.00881
8	.01536	.01446	.01363	.01287	.01218	.01154	.01096	.01041	.00991	.00945
9	.01641	.01546	.01460	.01380	.01307	.01240	.01178	.01120	.01068	.01019
10	.01758	.01659	.01567	.01484	.01407	.01336	.01270	.01210	.01154	.01103
11	.01886	.01781	.01686	.01598	.01517	.01442	.01373	.01310	.01251	.01196
12	.02024	.01915	.01814	.01721	.01636	.01558	.01485	.01419	.01357	.01299
13	.02168	.02054	.01948	.01851	.01762	.01679	.01603	.01533	.01467	.01407
14	.02313	.02193	.02083	.01981	.01887	.01801	.01721	.01646	.01578	.01514
15	.02456	.02330	.02214	.02107	.02009	.01918	.01834	.01756	.01684	.01617
16	.02593	.02462	.02340	.02229	.02126	.02030	.01942	.01860	.01785	.01714
17	.02728	.02590	.02463	.02346	.02238	.02138	.02046	.01960	.01880	.01806
18	.02861	.02717	.02584	.02462	.02348	.02243	.02146	.02056	.01972	.01894
19	.02998	.02847	.02708	.02580	.02461	.02351	.02249	.02154	.02066	.01984
20	.03142	.02984	.02839	.02704	.02580	.02465	.02357	.02258	.02165	.02079
21	.03295	.03130	.02978	.02837	.02706	.02585	.02473	.02368	.02271	.02180
22	.03455	.03283	.03124	.02976	.02839	.02712	.02594	.02484	.02382	.02286
23	.03626	.03446	.03279	.03124	.02981	.02847	.02723	.02608	.02500	.02400
24	.03809	.03620	.03446	.03283	.03133	.02993	.02863	.02741	.02628	.02522
25	.04005	.03808	.03625	.03456	.03298	.03151	.03014	.02887	.02768	.02656

Age	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
26	.04216	.04010	.03819	.03641	.03476	.03322	.03178	.03044	.02919	.02802
27	.04444	.04229	.04029	.03843	.03670	.03508	.03357	.03217	.03085	.02962
28	.04687	.04463	.04254	.04059	.03877	.03708	.03550	.03402	.03263	.03133
29	.04946	.04712	.04493	.04289	.04099	.03922	.03756	.03600	.03455	.03318
30	.05221	.04976	.04748	.04534	.04335	.04149	.03975	.03812	.03659	.03515
31	.05511	.05255	.05017	.04794	.04585	.04390	.04208	.04037	.03876	.03725
32	.05818	.05551	.05302	.05069	.04851	.04647	.04455	.04276	.04107	.03948
33	.06144	.05866	.05606	.05363	.05135	.04921	.04720	.04532	.04355	.04188
34	.06489	.06200	.05928	.05674	.05436	.05212	.05002	.04805	.04619	.04444
35	.06857	.06555	.06273	.06007	.05758	.05524	.05304	.05097	.04902	.04718
36	.07246	.06932	.06638	.06361	.06101	.05856	.05626	.05409	.05205	.05012
37	.07659	.07332	.07025	.06737	.06466	.06210	.05969	.05742	.05528	.05325
38	.08098	.07758	.07439	.07138	.06855	.06588	.06336	.06099	.05874	.05662
39	.08563	.08210	.07878	.07565	.07270	.06992	.06729	.06480	.06245	.06023
40	.09059	.08692	.08347	.08021	.07714	.07423	.07149	.06889	.06643	.06411
41	.09586	.09206	.08848	.08509	.08189	.07886	.07600	.07329	.07072	.06828
42	.10147	.09753	.09381	.09029	.08696	.08381	.08083	.07800	.07531	.07277
43	.10742	.10334	.09948	.09583	.09237	.08909	.08598	.08304	.08024	.07758
44	.11373	.10950	.10551	.10172	.09813	.09472	.09148	.08841	.08549	.08272
45	.12035	.11599	.11185	.10792	.10420	.10066	.09730	.09410	.09106	.08817
46	.12732	.12281	.11853	.11447	.11061	.10694	.10345	.10013	.09696	.09395
47	.13460	.12995	.12553	.12133	.11733	.11353	.10991	.10646	.10317	.10004
48	.14223	.13743	.13287	.12853	.12439	.12046	.11671	.11313	.10972	.10646
49	.15020	.14526	.14056	.13608	.13181	.12774	.12385	.12015	.11661	.11322
50	.15855	.15347	.14862	.14401	.13960	.13540	.13138	.12754	.12388	.12037
51	.16727	.16205	.15707	.15232	.14777	.14344	.13929	.13532	.13153	.12789
52	.17634	.17098	.16587	.16097	.15630	.15183	.14755	.14345	.13953	.13577
53	.18576	.18027	.17501	.16999	.16518	.16057	.15616	.15194	.14789	.14400
54	.19552	.18990	.18451	.17935	.17441	.16968	.16514	.16078	.15661	.15260
55	.20564	.19989	.19437	.18908	.18402	.17915	.17449	.17001	.16571	.16157
56	.21613	.21025	.20461	.19919	.19400	.18901	.18422	.17962	.17519	.17093
57	.22698	.22098	.21522	.20968	.20436	.19925	.19434	.18961	.18507	.18069
58	.23816	.23204	.22616	.22051	.21507	.20984	.20481	.19996	.19530	.19080
59	.24962	.24339	.23740	.23163	.22608	.22073	.21558	.21062	.20584	.20123
60	.26136	.25502	.24892	.24304	.23738	.23192	.22666	.22158	.21669	.21196
61	.27339	.26695	.26075	.25477	.24900	.24343	.23806	.23288	.22787	.22304
62	.28578	.27925	.27295	.26687	.26100	.25533	.24985	.24456	.23945	.23451
63	.29854	.29192	.28553	.27935	.27339	.26762	.26205	.25666	.25145	.24641
64	.31164	.30494	.29846	.29221	.28615	.28030	.27463	.26915	.26384	.25870
65	.32508	.31831	.31177	.30543	.29930	.29336	.28761	.28203	.27663	.27140
66	.33891	.33208	.32547	.31906	.31285	.30684	.30101	.29536	.28987	.28456
67	.35318	.34630	.33963	.33316	.32689	.32081	.31491	.30918	.30363	.29823
68	.36785	.36093	.35422	.34770	.34138	.33524	.32928	.32349	.31787	.31240
69	.38290	.37595	.36920	.36265	.35628	.35009	.34408	.33824	.33256	.32703
70	.39823	.39127	.38450	.37791	.37151	.36529	.35924	.35335	.34762	.34204
71	.41378	.40681	.40003	.39343	.38701	.38076	.37467	.36875	.36298	.35736
72	.42950	.42253	.41575	.40914	.40271	.39644	.39034	.38438	.37858	.37293
73	.44535	.43840	.43162	.42502	.41858	.41231	.40619	.40022	.39440	.38872
74	.46139	.45446	.44771	.44112	.43469	.42842	.42230	.41632	.41049	.40479
75	.47769	.47080	.46408	.45752	.45111	.44485	.43874	.43277	.42693	.42123
76	.49430	.48747	.48079	.47427	.46790	.46167	.45558	.44963	.44380	.43811
77	.51123	.50447	.49786	.49139	.48506	.47888	.47282	.46690	.46111	.45543
78	.52845	.52177	.51523	.50884	.50257	.49645	.49044	.48457	.47881	.47317
79	.54584	.53926	.53282	.52650	.52032	.51426	.50833	.50251	.49681	.49122
80	.56325	.55678	.55044	.54423	.53813	.53216	.52630	.52056	.51492	.50939
81	.58054	.57419	.56797	.56186	.55587	.54999	.54422	.53856	.53300	.52754
82	.59762	.59140	.58530	.57931	.57343	.56766	.56198	.55641	.55094	.54557
83	.61448	.60840	.60243	.59657	.59081	.58515	.57958	.57411	.56874	.56346
84	.63124	.62531	.61949	.61376	.60813	.60259	.59715	.59179	.58652	.58134
85	.64800	.64224	.63657	.63099	.62550	.62010	.61478	.60955	.60441	.59934
86	.66461	.65902	.65351	.64810	.64276	.63751	.63233	.62724	.62222	.61728
87	.68083	.67541	.67008	.66483	.65965	.65455	.64953	.64458	.63970	.63489
88	.69663	.69140	.68624	.68116	.67615	.67121	.66634	.66154	.65680	.65213
89	.71201	.70696	.70199	.69708	.69224	.68747	.68276	.67811	.67353	.66900
90	.72694	.72209	.71730	.71257	.70791	.70330	.69876	.69427	.68984	.68547
91	.74117	.73650	.73190	.72735	.72286	.71842	.71404	.70972	.70545	.70123
92	.75439	.74991	.74548	.74110	.73678	.73251	.72829	.72412	.72000	.71593
93	.76664	.76233	.75806	.75385	.74969	.74557	.74150	.73748	.73350	.72957
94	.77809	.77394	.76983	.76578	.76177	.75780	.75388	.75000	.74616	.74237
95	.78899	.78500	.78106	.77715	.77329	.76947	.76569	.76195	.75826	.75460
96	.79928	.79544	.79165	.78790	.78418	.78050	.77686	.77326	.76970	.76617
97	.80883	.80514	.80149	.79787	.79430	.79075	.78725	.78377	.78033	.77693
98	.81781	.81427	.81075	.80727	.80382	.80041	.79703	.79368	.79036	.78708
99	.82661	.82320	.81982	.81648	.81316	.80988	.80662	.80340	.80020	.79704

Age	8.2%	8.4%	8.6%	8.8%	9.0%	9.2%	9.4%	9.6%	9.8%	10.0%
100	.83519	.83192	.82868	.82547	.82228	.81913	.81600	.81290	.80982	.80678
101	.84368	.84055	.83744	.83437	.83131	.82829	.82529	.82231	.81936	.81643
102	.85203	.84904	.84607	.84313	.84021	.83731	.83444	.83159	.82876	.82596
103	.86034	.85748	.85465	.85184	.84906	.84629	.84355	.84082	.83812	.83544
104	.86923	.86653	.86385	.86119	.85855	.85593	.85333	.85074	.84818	.84563
105	.87792	.87537	.87283	.87032	.86782	.86534	.86287	.86042	.85799	.85557
106	.88918	.88683	.88450	.88218	.87987	.87758	.87530	.87304	.87079	.86855
107	.90291	.90082	.89873	.89666	.89460	.89255	.89051	.88849	.88647	.88447
108	.92455	.92288	.92123	.91958	.91794	.91630	.91468	.91306	.91145	.90984
109	.96211	.96125	.96041	.95956	.95872	.95788	.95704	.95620	.95537	.95455

Age	10.2%	10.4%	10.6%	10.8%	11.0%	11.2%	11.4%	11.6%	11.8%	12.0%
0	.01488	.01463	.01439	.01417	.01396	.01377	.01359	.01343	.01327	.01312
1	.00662	.00636	.00612	.00589	.00568	.00548	.00530	.00513	.00497	.00482
2	.00654	.00626	.00600	.00576	.00554	.00533	.00514	.00496	.00479	.00463
3	.00670	.00641	.00613	.00588	.00564	.00542	.00522	.00502	.00484	.00468
4	.00699	.00668	.00639	.00612	.00587	.00563	.00542	.00521	.00502	.00484
5	.00739	.00706	.00675	.00646	.00620	.00595	.00571	.00550	.00529	.00510
6	.00786	.00751	.00718	.00687	.00659	.00633	.00608	.00585	.00563	.00543
7	.00841	.00803	.00769	.00736	.00706	.00678	.00652	.00627	.00604	.00582
8	.00902	.00863	.00826	.00791	.00759	.00730	.00702	.00675	.00651	.00628
9	.00973	.00931	.00892	.00856	.00822	.00790	.00760	.00733	.00706	.00682
10	.01055	.01010	.00969	.00930	.00894	.00861	.00829	.00799	.00772	.00746
11	.01146	.01099	.01055	.01014	.00976	.00940	.00907	.00875	.00846	.00818
12	.01246	.01196	.01150	.01106	.01066	.01028	.00993	.00960	.00928	.00899
13	.01351	.01298	.01249	.01204	.01161	.01121	.01084	.01049	.01016	.00985
14	.01455	.01400	.01348	.01300	.01255	.01213	.01173	.01136	.01102	.01069
15	.01555	.01497	.01443	.01392	.01345	.01300	.01259	.01220	.01183	.01148
16	.01648	.01587	.01530	.01477	.01427	.01380	.01336	.01295	.01257	.01220
17	.01737	.01673	.01612	.01556	.01504	.01455	.01408	.01365	.01324	.01286
18	.01822	.01754	.01691	.01632	.01576	.01525	.01476	.01430	.01387	.01347
19	.01908	.01837	.01770	.01708	.01650	.01595	.01544	.01495	.01450	.01407
20	.01999	.01924	.01854	.01788	.01726	.01669	.01615	.01564	.01516	.01471
21	.02096	.02017	.01943	.01874	.01809	.01748	.01691	.01637	.01586	.01539
22	.02197	.02114	.02036	.01963	.01895	.01830	.01770	.01713	.01660	.01610
23	.02306	.02218	.02136	.02059	.01987	.01919	.01855	.01795	.01739	.01686
24	.02424	.02331	.02245	.02163	.02087	.02016	.01948	.01885	.01825	.01769
25	.02552	.02455	.02364	.02278	.02197	.02122	.02051	.01984	.01920	.01861
26	.02692	.02589	.02493	.02403	.02318	.02238	.02162	.02091	.02025	.01961
27	.02846	.02738	.02636	.02541	.02451	.02367	.02287	.02212	.02141	.02074
28	.03012	.02898	.02791	.02690	.02595	.02506	.02422	.02342	.02267	.02196
29	.03190	.03070	.02957	.02851	.02751	.02656	.02567	.02483	.02404	.02329
30	.03381	.03254	.03135	.03023	.02917	.02817	.02723	.02634	.02551	.02471
31	.03583	.03450	.03324	.03206	.03094	.02989	.02890	.02796	.02707	.02623
32	.03799	.03659	.03527	.03402	.03284	.03173	.03068	.02968	.02874	.02785
33	.04031	.03883	.03744	.03612	.03488	.03371	.03260	.03155	.03055	.02961
34	.04279	.04123	.03976	.03838	.03707	.03583	.03465	.03354	.03249	.03149
35	.04545	.04382	.04227	.04081	.03943	.03812	.03688	.03571	.03459	.03354
36	.04830	.04658	.04495	.04341	.04196	.04058	.03927	.03803	.03685	.03573
37	.05134	.04953	.04782	.04620	.04467	.04321	.04183	.04052	.03928	.03809
38	.05462	.05272	.05092	.04921	.04760	.04606	.04461	.04322	.04191	.04066
39	.05812	.05613	.05424	.05245	.05075	.04913	.04760	.04614	.04475	.04343
40	.06190	.05981	.05782	.05594	.05415	.05245	.05083	.04929	.04783	.04643
41	.06597	.06378	.06170	.05972	.05784	.05605	.05435	.05272	.05118	.04970
42	.07035	.06806	.06587	.06380	.06182	.05994	.05815	.05644	.05481	.05326
43	.07505	.07265	.07036	.06818	.06611	.06414	.06225	.06045	.05874	.05710
44	.08008	.07757	.07518	.07290	.07072	.06865	.06667	.06478	.06298	.06125
45	.08542	.08279	.08029	.07791	.07563	.07346	.07138	.06940	.06750	.06569
46	.09108	.08834	.08573	.08324	.08085	.07858	.07640	.07432	.07233	.07043
47	.09705	.09419	.09147	.08886	.08637	.08399	.08172	.07954	.07745	.07545
48	.10335	.10038	.09754	.09482	.09222	.08973	.08735	.08507	.08288	.08078
49	.10999	.10690	.10394	.10111	.09840	.09581	.09332	.09093	.08864	.08644
50	.11701	.11380	.11073	.10778	.10496	.10225	.09965	.09716	.09477	.09247
51	.12441	.12108	.11789	.11482	.11189	.10907	.10636	.10376	.10126	.09886
52	.13217	.12871	.12540	.12222	.11916	.11623	.11341	.11071	.10810	.10560
53	.14028	.13670	.13327	.12997	.12680	.12375	.12082	.11801	.11529	.11268
54	.14875	.14505	.14150	.13808	.13480	.13163	.12859	.12566	.12284	.12012
55	.15760	.15378	.15011	.14657	.14317	.13989	.13674	.13370	.13077	.12794
56	.16684	.16290	.15911	.15546	.15194	.14855	.14528	.14213	.13909	.13615
57	.17648	.17242	.16851	.16474	.16111	.15760	.15422	.15096	.14781	.14477
58	.18647	.18229	.17827	.17438	.17064	.16702	.16353	.16015	.15689	.15374
59	.19678	.19249	.18835	.18435	.18049	.17676	.17316	.16968	.16631	.16305
60	.20740	.20300	.19875	.19464	.19066	.18682	.18311	.17952	.17604	.17268

Age	10.2%	10.4%	10.6%	10.8%	11.0%	11.2%	11.4%	11.6%	11.8%	12.0%
61	.21837	.21385	.20949	.20527	.20119	.19724	.19341	.18971	.18613	.18266
62	.22973	.22511	.22064	.21631	.21212	.20807	.20414	.20033	.19664	.19306
63	.24152	.23680	.23222	.22779	.22350	.21934	.21530	.21139	.20760	.20392
64	.25372	.24890	.24422	.23969	.23529	.23103	.22690	.22289	.21899	.21521
65	.26633	.26141	.25664	.25201	.24752	.24316	.23893	.23482	.23083	.22695
66	.27940	.27439	.26953	.26481	.26023	.25577	.25145	.24724	.24316	.23918
67	.29299	.28790	.28296	.27815	.27348	.26894	.26453	.26024	.25606	.25200
68	.30709	.30193	.29691	.29202	.28728	.28265	.27816	.27378	.26952	.26537
69	.32166	.31643	.31134	.30639	.30157	.29687	.29230	.28785	.28351	.27928
70	.33661	.33133	.32618	.32116	.31628	.31152	.30688	.30235	.29794	.29364
71	.35188	.34654	.34134	.33627	.33133	.32651	.32181	.31722	.31275	.30838
72	.36742	.36204	.35679	.35168	.34668	.34181	.33706	.33241	.32788	.32345
73	.38317	.37776	.37248	.36733	.36229	.35738	.35257	.34788	.34330	.33882
74	.39923	.39380	.38849	.38330	.37823	.37328	.36844	.36370	.35908	.35455
75	.41566	.41021	.40489	.39968	.39459	.38961	.38474	.37997	.37531	.37074
76	.43254	.42709	.42176	.41655	.41144	.40645	.40156	.39677	.39208	.38749
77	.44988	.44444	.43912	.43391	.42880	.42380	.41891	.41411	.40940	.40479
78	.46765	.46224	.45694	.45174	.44665	.44166	.43677	.43197	.42726	.42265
79	.48574	.48037	.47510	.46993	.46487	.45990	.45502	.45024	.44554	.44094
80	.50397	.49865	.49343	.48830	.48327	.47834	.47349	.46873	.46406	.45947
81	.52219	.51693	.51176	.50669	.50171	.49682	.49201	.48729	.48265	.47809
82	.54029	.53510	.53000	.52499	.52007	.51523	.51047	.50580	.50120	.49667
83	.55826	.55315	.54813	.54319	.53834	.53356	.52886	.52424	.51969	.51522
84	.57624	.57123	.56629	.56144	.55666	.55195	.54732	.54277	.53828	.53386
85	.59435	.58944	.58460	.57984	.57516	.57054	.56599	.56151	.55710	.55275
86	.61241	.60762	.60289	.59824	.59365	.58913	.58468	.58029	.57596	.57170
87	.63015	.62548	.62087	.61633	.61185	.60744	.60309	.59880	.59456	.59039
88	.64753	.64299	.63851	.63409	.62973	.62543	.62118	.61700	.61287	.60879
89	.66454	.66013	.65579	.65150	.64726	.64308	.63895	.63488	.63086	.62689
90	.68115	.67689	.67268	.66853	.66442	.66037	.65637	.65241	.64851	.64465
91	.69706	.69294	.68887	.68486	.68089	.67696	.67309	.66925	.66547	.66173
92	.71190	.70792	.70399	.70011	.69627	.69247	.68872	.68501	.68134	.67771
93	.72569	.72184	.71804	.71429	.71057	.70689	.70326	.69967	.69611	.69259
94	.73861	.73490	.73123	.72759	.72400	.72044	.71692	.71344	.71000	.70659
95	.75097	.74739	.74384	.74033	.73686	.73342	.73002	.72665	.72331	.72001
96	.76267	.75922	.75579	.75240	.74905	.74572	.74243	.73917	.73595	.73275
97	.77356	.77022	.76691	.76363	.76039	.75718	.75399	.75084	.74772	.74463
98	.78382	.78059	.77740	.77423	.77110	.76799	.76491	.76186	.75884	.75584
99	.79390	.79079	.78771	.78465	.78162	.77862	.77565	.77270	.76978	.76688
100	.80376	.80076	.79779	.79485	.79193	.78904	.78617	.78333	.78051	.77771
101	.81353	.81066	.80780	.80497	.80217	.79938	.79662	.79388	.79117	.78847
102	.82318	.82042	.81768	.81496	.81227	.80960	.80694	.80431	.80170	.79911
103	.83278	.83014	.82752	.82491	.82233	.81977	.81723	.81470	.81220	.80971
104	.84310	.84059	.83810	.83563	.83317	.83073	.82831	.82591	.82352	.82115
105	.85318	.85079	.84843	.84607	.84374	.84142	.83911	.83682	.83455	.83229
106	.86633	.86413	.86193	.85975	.85758	.85543	.85329	.85116	.84904	.84694
107	.88247	.88049	.87852	.87656	.87460	.87266	.87073	.86881	.86690	.86500
108	.90825	.90666	.90507	.90350	.90193	.90037	.89881	.89727	.89572	.89419
109	.95372	.95290	.95208	.95126	.95045	.94964	.94883	.94803	.94723	.94643

Age	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
0	.01298	.01285	.01273	.01261	.01250	.01240	.01230	.01221	.01212	.01203
1	.00468	.00455	.00443	.00431	.00420	.00410	.00400	.00391	.00382	.00374
2	.00448	.00435	.00421	.00409	.00398	.00387	.00376	.00366	.00357	.00348
3	.00452	.00437	.00423	.00410	.00398	.00386	.00375	.00365	.00355	.00345
4	.00468	.00452	.00437	.00423	.00410	.00397	.00386	.00375	.00364	.00354
5	.00493	.00476	.00460	.00445	.00431	.00418	.00405	.00393	.00382	.00371
6	.00524	.00506	.00489	.00473	.00458	.00444	.00430	.00418	.00406	.00394
7	.00562	.00543	.00525	.00508	.00492	.00477	.00462	.00449	.00436	.00423
8	.00606	.00586	.00566	.00548	.00531	.00515	.00499	.00485	.00471	.00458
9	.00659	.00637	.00616	.00597	.00579	.00561	.00545	.00529	.00514	.00500
10	.00721	.00698	.00676	.00655	.00636	.00617	.00600	.00583	.00567	.00552
11	.00792	.00767	.00744	.00722	.00701	.00682	.00663	.00645	.00628	.00612
12	.00871	.00845	.00821	.00797	.00775	.00754	.00735	.00716	.00698	.00681
13	.00955	.00928	.00902	.00877	.00854	.00831	.00810	.00790	.00771	.00753
14	.01038	.01009	.00981	.00955	.00930	.00907	.00885	.00864	.00843	.00824
15	.01116	.01085	.01056	.01028	.01002	.00977	.00954	.00932	.00910	.00890
16	.01186	.01153	.01123	.01094	.01066	.01040	.01015	.00992	.00969	.00948
17	.01250	.01215	.01183	.01152	.01124	.01096	.01070	.01045	.01022	.00999
18	.01308	.01272	.01238	.01206	.01175	.01147	.01119	.01093	.01068	.01044
19	.01367	.01329	.01293	.01259	.01227	.01196	.01167	.01140	.01113	.01088
20	.01428	.01388	.01350	.01314	.01280	.01248	.01217	.01188	.01161	.01134
21	.01494	.01451	.01411	.01373	.01337	.01303	.01271	.01240	.01211	.01183

Age	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
22	.01562	.01517	.01475	.01435	.01397	.01361	.01326	.01294	.01263	.01233
23	.01635	.01588	.01543	.01501	.01460	.01422	.01386	.01351	.01319	.01287
24	.01716	.01665	.01618	.01573	.01530	.01489	.01451	.01415	.01380	.01347
25	.01804	.01751	.01701	.01653	.01608	.01565	.01524	.01485	.01448	.01413
26	.01902	.01845	.01792	.01741	.01693	.01648	.01604	.01563	.01524	.01487
27	.02011	.01951	.01895	.01841	.01790	.01742	.01696	.01652	.01610	.01571
28	.02129	.02066	.02006	.01949	.01895	.01844	.01795	.01748	.01704	.01662
29	.02258	.02191	.02127	.02067	.02009	.01955	.01903	.01853	.01806	.01762
30	.02396	.02325	.02257	.02193	.02132	.02074	.02019	.01966	.01916	.01869
31	.02543	.02467	.02396	.02328	.02263	.02201	.02143	.02087	.02034	.01983
32	.02701	.02621	.02545	.02472	.02404	.02338	.02276	.02217	.02160	.02106
33	.02871	.02786	.02706	.02629	.02556	.02487	.02420	.02357	.02297	.02240
34	.03054	.02964	.02879	.02797	.02720	.02646	.02576	.02509	.02445	.02383
35	.03253	.03158	.03067	.02981	.02898	.02820	.02745	.02674	.02606	.02541
36	.03467	.03366	.03269	.03178	.03090	.03007	.02928	.02852	.02779	.02710
37	.03697	.03590	.03488	.03391	.03298	.03209	.03125	.03044	.02967	.02893
38	.03947	.03833	.03725	.03622	.03524	.03430	.03340	.03254	.03172	.03094
39	.04217	.04096	.03982	.03873	.03768	.03669	.03573	.03482	.03395	.03312
40	.04510	.04383	.04262	.04146	.04035	.03930	.03828	.03732	.03639	.03550
41	.04830	.04695	.04567	.04445	.04327	.04215	.04108	.04005	.03907	.03812
42	.05177	.05035	.04900	.04770	.04646	.04527	.04413	.04304	.04200	.04100
43	.05553	.05404	.05261	.05123	.04992	.04866	.04746	.04630	.04520	.04413
44	.05960	.05802	.05651	.05506	.05368	.05235	.05107	.04985	.04867	.04754
45	.06395	.06229	.06069	.05917	.05770	.05630	.05495	.05365	.05241	.05121
46	.06860	.06685	.06517	.06356	.06202	.06053	.05911	.05774	.05643	.05516
47	.07353	.07169	.06992	.06823	.06660	.06504	.06353	.06209	.06070	.05936
48	.07877	.07684	.07498	.07320	.07149	.06984	.06826	.06673	.06527	.06385
49	.08433	.08231	.08036	.07849	.07669	.07495	.07329	.07168	.07013	.06864
50	.09026	.08814	.08609	.08413	.08224	.08042	.07867	.07698	.07535	.07378
51	.09655	.09433	.09219	.09013	.08815	.08624	.08440	.08262	.08091	.07926
52	.10318	.10086	.09863	.09647	.09439	.09239	.09046	.08860	.08680	.08506
53	.11017	.10774	.10541	.10315	.10098	.09888	.09686	.09491	.09302	.09120
54	.11750	.11498	.11254	.11019	.10792	.10572	.10361	.10156	.09958	.09767
55	.12522	.12258	.12005	.11759	.11522	.11294	.11072	.10859	.10652	.10451
56	.13332	.13059	.12794	.12539	.12292	.12054	.11823	.11599	.11383	.11174
57	.14183	.13899	.13624	.13359	.13102	.12853	.12613	.12380	.12154	.11936
58	.15070	.14775	.14490	.14215	.13948	.13689	.13439	.13197	.12962	.12734
59	.15990	.15685	.15389	.15103	.14826	.14558	.14298	.14046	.13801	.13564
60	.16942	.16626	.16321	.16024	.15737	.15459	.15189	.14927	.14673	.14426
61	.17929	.17603	.17287	.16981	.16684	.16395	.16115	.15844	.15580	.15324
62	.18960	.18623	.18297	.17980	.17673	.17375	.17085	.16803	.16530	.16264
63	.20035	.19688	.19352	.19025	.18708	.18400	.18100	.17809	.17525	.17250
64	.21154	.20797	.20451	.20114	.19787	.19469	.19159	.18859	.18566	.18281
65	.22318	.21951	.21595	.21249	.20912	.20584	.20265	.19955	.19652	.19358
66	.23532	.23156	.22790	.22434	.22088	.21751	.21422	.21102	.20791	.20487
67	.24804	.24419	.24044	.23679	.23324	.22977	.22640	.22311	.21990	.21678
68	.26133	.25740	.25356	.24983	.24618	.24263	.23917	.23579	.23250	.22929
69	.27516	.27114	.26723	.26341	.25969	.25605	.25251	.24905	.24567	.24237
70	.28945	.28536	.28137	.27747	.27367	.26996	.26633	.26279	.25934	.25596
71	.30412	.29996	.29590	.29193	.28806	.28427	.28057	.27696	.27343	.26998
72	.31913	.31491	.31078	.30675	.30281	.29895	.29519	.29150	.28790	.28438
73	.33444	.33016	.32597	.32188	.31788	.31396	.31013	.30638	.30271	.29913
74	.35012	.34579	.34155	.33741	.33335	.32938	.32549	.32168	.31795	.31430
75	.36628	.36190	.35762	.35343	.34932	.34530	.34136	.33750	.33372	.33001
76	.38299	.37858	.37427	.37004	.36589	.36183	.35784	.35394	.35011	.34636
77	.40028	.39585	.39151	.38725	.38307	.37898	.37496	.37103	.36716	.36337
78	.41812	.41368	.40933	.40506	.40086	.39675	.39271	.38874	.38485	.38103
79	.43641	.43198	.42762	.42334	.41914	.41502	.41096	.40698	.40308	.39924
80	.45496	.45054	.44619	.44192	.43772	.43360	.42954	.42556	.42164	.41779
81	.47360	.46920	.46487	.46061	.45643	.45231	.44827	.44429	.44038	.43653
82	.49223	.48785	.48355	.47932	.47516	.47106	.46703	.46307	.45916	.45532
83	.51081	.50648	.50221	.49802	.49388	.48982	.48581	.48187	.47799	.47416
84	.52951	.52523	.52101	.51686	.51277	.50874	.50477	.50086	.49701	.49321
85	.54847	.54425	.54009	.53600	.53196	.52798	.52406	.52019	.51638	.51262
86	.56749	.56335	.55926	.55523	.55126	.54734	.54348	.53966	.53591	.53220
87	.58627	.58221	.57820	.57425	.57035	.56650	.56270	.55895	.55526	.55161
88	.60477	.60079	.59688	.59301	.58919	.58542	.58170	.57802	.57439	.57081
89	.62297	.61909	.61527	.61149	.60776	.60408	.60044	.59685	.59330	.58979
90	.64084	.63707	.63335	.62968	.62604	.62246	.61891	.61540	.61194	.60851
91	.65803	.65437	.65076	.64719	.64366	.64017	.63672	.63330	.62993	.62659
92	.67412	.67058	.66707	.66360	.66017	.65678	.65342	.65010	.64682	.64357
93	.68911	.68567	.68227	.67890	.67557	.67227	.66901	.66578	.66258	.65942
94	.70321	.69988	.69657	.69330	.69006	.68686	.68369	.68055	.67744	.67437
95	.71674	.71351	.71031	.70713	.70399	.70088	.69781	.69476	.69174	.68875

Age	12.2%	12.4%	12.6%	12.8%	13.0%	13.2%	13.4%	13.6%	13.8%	14.0%
96	.72959	.72646	.72335	.72028	.71724	.71422	.71123	.70828	.70534	.70244
97	.74156	.73853	.73552	.73254	.72959	.72666	.72376	.72089	.71804	.71522
98	.75287	.74993	.74702	.74413	.74126	.73842	.73561	.73282	.73006	.72732
99	.76401	.76117	.75834	.75555	.75277	.75002	.74730	.74459	.74191	.73926
100	.77494	.77219	.76946	.76676	.76408	.76142	.75878	.75616	.75357	.75099
101	.78580	.78315	.78052	.77791	.77532	.77275	.77021	.76768	.76517	.76268
102	.79654	.79399	.79146	.78894	.78645	.78397	.78152	.77908	.77666	.77426
103	.80724	.80479	.80236	.79994	.79755	.79517	.79280	.79046	.78813	.78582
104	.81879	.81646	.81413	.81183	.80954	.80726	.80501	.80276	.80054	.79832
105	.83005	.82782	.82560	.82340	.82121	.81904	.81688	.81474	.81260	.81049
106	.84485	.84277	.84071	.83866	.83662	.83459	.83257	.83057	.82857	.82659
107	.86311	.86124	.85937	.85751	.85566	.85382	.85199	.85017	.84835	.84655
108	.89266	.89114	.88963	.88812	.88662	.88513	.88364	.88216	.88068	.87922
109	.94563	.94484	.94405	.94326	.94248	.94170	.94092	.94014	.93937	.93860

TABLE 90 CM.—LIFE TABLE APPLICABLE AFTER APRIL 30, 1999

Age × (1)	1(×) (2)	Age × (1)	1(×) (2)	Age × (1)	1(×) (2)
0	100000	37	95969	74	62852
1	99064	38	95780	75	60449
2	98992	39	95581	76	57955
3	98944	40	95373	77	55373
4	98907	41	95156	78	52704
5	98877	42	94928	79	49943
6	98850	43	94687	80	47084
7	98826	44	94431	81	44129
8	98803	45	94154	82	41091
9	98783	46	93855	83	37994
10	98766	47	93528	84	34876
11	98750	48	93173	85	31770
12	98734	49	92787	86	28687
13	98713	50	92370	87	25638
14	98681	51	91918	88	22658
15	98635	52	91424	89	19783
16	98573	53	90885	90	17046
17	98497	54	90297	91	14466
18	98409	55	89658	92	12066
19	98314	56	88965	93	9884
20	98215	57	88214	94	7951
21	98113	58	87397	95	6282
22	98006	59	86506	96	4868
23	97896	60	85537	97	3694
24	97784	61	84490	98	2745
25	97671	62	83368	99	1999
26	97556	63	82169	100	1424
27	97441	64	80887	101	991
28	97322	65	79519	102	672
29	97199	66	78066	103	443
30	97070	67	76531	104	284
31	96934	68	74907	105	175
32	96791	69	73186	106	105
33	96642	70	71357	107	60
34	96485	71	69411	108	33
35	96322	72	67344	109	17
36	96150	73	65154	110	0

(e) *Effective dates.* This section applies after April 30, 1999.

Par. 20 Section 20.2055–2 is amended by revising paragraph (f)(4) to read as follows:

§ 20.2055–2 Transfers not exclusively for charitable purposes.

* * * * *

(f) * * *

(4) *Other decedents.* The present value of an interest not described in paragraph (f)(2) of this section is to be determined under § 20.2031–7T(d) in the case of decedents where the valuation date of the gross estate is after April 30, 1999, or under § 20.2031–7A in the case of decedents where the valuation date of the gross estate is before May 1, 1999.

* * * * *

Par. 21. Section 20.7520–1 is amended as follows:

1. Paragraph (b)(2), last two sentences are revised.

2. Headings for paragraphs (c)(1) and (c)(2) are revised.

3. Paragraph (c)(2) introductory text is revised.

4. Paragraph (c)(2)(iii) is amended by removing the first two sentences and adding one sentence in their place.

5. Paragraph (d) is revised.

The revised and added provisions read as follows:

§ 20.7520–1 Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests.

* * * * *

(b) * * *

(2) * * * For decedents' estates with valuation dates after April 30, 1989, and before May 1, 1999, the mortality component table (Table 80CNSMT) is included in § 20.2031–7A(e)(4). See § 20.2031–7A(a) through (d) for mortality component tables applicable to decedents' estates with valuation dates before May 1, 1989.

(c) * * *

(1) *Regulations sections containing tables with interest rates between 4.2 and 14 percent for valuation dates after April 30, 1989, and before May 1, 1999.* * * *

(2) *Internal Revenue Service publications containing tables with interest rates between 2.2. and 26 percent for valuation dates after April 30, 1989, and before May 1, 1999.* The following publications are no longer available from the Superintendent of Documents, however, they may be obtained from: CC:DOM:CORP:R, room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044:

* * * * *

(iii) Internal Revenue Service Publication 1459, ''Actuarial Values, Gamma Volume,'' (8–89). * * *

(d) *Effective date.* This section applies after April 30, 1989, and before May 1, 1999.

Par. 22. Section 20.7520–1T is added to read as follows:

§ 20.7520–1T Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests (temporary).

(a)(1) [Reserved]. For further guidance, see § 20.7520–1(a)1.

(2) In the case of a transfer to a pooled income fund with a valuation date after April 30, 1999, see § 1.642(c)–6T(e) (or, for certain prior periods, § 1.642(c)–6A) of this chapter (Income Tax Regulations) with respect to the valuation of the remainder interest.

(a)(3) through (b)(1) [Reserved]. For further guidance, see § 20.7520–1(a)(3) through (b)(1).

(b)(2) *Mortality component.* The mortality component reflects the mortality data most recently available from the United States Census. As new mortality data becomes available after each decennial census, the mortality component described in this section will be revised periodically and the mortality component tables will be published in the regulations at that time. For decedents' estates with valuation dates after April 30, 1999, the mortality component table (Table 90CM) is included in § 20.2031–7T(d)(7). See § 20.2031–7A for mortality component tables applicable to decedent's estates with valuation dates before May 1, 1999.

(c) [Reserved]. For further guidance, see § 20.7520–1(c).

(1) *Regulation sections containing tables with interest rates between 4.2 and 14 percent for valuation dates after April 30, 1999.* Section 1.642(c)–6T(e)(6) of this chapter contains Table S used for determining the present value of a single life remainder interest in a pooled income fund as defined in § 1.642(c)–5 of this chapter. See § 1.642(c)–6A of this chapter for actuarial factors for one life applicable to valuation dates before May 1, 1999. Section 1.664–4(e)(6) of this chapter contains Table F (payout factors) and Table D (actuarial factors used in determining the present value of a remainder interest postponed for a term of years). Section 1.664–4T(e)(7) of this chapter contains Table U(1) (actuarial factors for one life). These tables are used in determining the present value of a remainder interest in a charitable remainder unitrust as defined in § 1.664–3 of this chapter. See § 1.664–4A of this chapter for actuarial factors for one life applicable to valuation dates before May 1, 1999. Section 20.2031–7(d)(6) contains Table B (actuarial factors used in determining the present value of an interest for a term of years), Table K (annuity end-of-interval adjustment factors), and Table J (term certain annuity beginning-of-interval adjustment factors). Section 20.2031–7T(d)(7) contains Table S (actuarial factors for one life) and Table 90CM (mortality components). These tables are used in determining the present value of annuities, life estates, remainders, and reversions. See § 20.2031–7A for actuarial factors for one life and mortality components applicable to valuation dates before May 1, 1999.

(2) *Internal Revenue Service publications containing tables with interest rates between 2.2 and 26 percent for valuation dates after April 30, 1999.* The following documents are available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402:

(i) Internal Revenue Service Publication 1457, ''Actuarial Values, Book Aleph,'' (1999). This publication includes tables of valuation factors, as well as examples that show how to compute other valuation factors, for determining the present value of annuities, life estates, terms of years, remainders, and reversions, measured by one or two lives. These factors may also be used in the valuation of interests in a charitable remainder annuity trust as defined in § 1.664–2 of this chapter (Income Tax Regulations) and a pooled income fund as defined in § 1.642(c)–5 of this chapter.

(ii) Internal Revenue Service Publication 1458, ''Actuarial Values, Book Beth,'' (1999). This publication includes term certain tables and tables of one and two life valuation factors for determining the present value of remainder interests in a charitable remainder unitrust as defined in § 1.664–3 of this chapter.

(iii) Internal Revenue Service Publication 1459, ''Actuarial Values, Book Gimel,'' (1999). This publication includes tables for computing depreciation adjustment factors. See § 1.170A–12T of this chapter.

(d) *Effective date.* This section applies after April 30, 1999.

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

Par. 23. The authority citation for part 25 is amended by adding entries in numerical order to read in part as follows:

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

Section 25.2512–5T also issued under 26 U.S.C. 7520(c)(2). * * *

Section 25.7520–1T also issued under 26 U.S.C. 7520(c)(2). * * *

Par. 24. Section 25.2512–0 is revised to read as follows:

§ 25.2512–0 Table of contents.

This section lists the section headings that appear in the regulations under section 2512.

§ 25.2512–1 Valuation of property; in general.
§ 25.2512–2 Stocks and bonds.
§ 25.2512–3 Valuation of interest in businesses.
§ 25.2512–4 Valuation of notes.
§ 25.2512–5 Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests.
§ 25.2512–5T Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests (temporary).
§ 25.2512–6 Valuation of certain life insurance and annuity contracts; valuation of shares in an open-end investment company.

§ 25.2512–7 Effect of excise tax.
§ 25.2512–8 Transfers for insufficient consideration.

Actuarial Tables Applicable Before May 1, 1999

§ 25.2512–5A Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests transferred before May 1, 1999.

Par. 25. Section 25.2512–5 is amended as follows:

1. The section heading is revised.
2. Paragraphs (c) and (d) are revised.
3. Paragraph (e) is revised.

The revised provisions read as follows:

§ 25.2512–5 Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests.

* * * * *

(c) and (d) [Reserved]. For further guidance, see § 25.2512–5T(c) and (d).

(e) *Effective date.* This section applies after April 30, 1989, and before May 1, 1999.

Par. 26. Section 25.2512–5T is added to read as follows:

§ 25.2512–5T Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests (temporary).

(a) and (b) [Reserved]. For further guidance, see § 25.2512–5(a) and (b).

(c) *Actuarial valuations.* The present value of annuities, unitrust interests, life estates, terms of years, remainders, and reversions transferred by gift after April 30, 1999, is determined under paragraph (d) of this section. The present value of annuities, unitrust interests, life estates, terms of years, remainders, and reversions transferred by gift before May 1, 1999, is determined under the following sections:

Transfers		Applicable regulations
After	Before	
	01–01–52	25.2512–5A(a).
12–31–51 ...	01–01–71	25.2512–5A(b).
12–31–70 ...	12–01–83	25.2512–5A(c).
11–30–83 ...	05–01–89	25.2512–5A(d).
04–30–89 ...	05–01–99	25.2512–5A(e).

(d) *Actuarial valuations after April 30, 1999*—(1) *In general.* Except as otherwise provided in paragraph (b) of this section and § 25.7520–3(b) (relating to exceptions to the use of prescribed tables under certain circumstances), if the valuation date for the gift is after April 30, 1999, the fair market value of annuities, life estates, terms of years, remainders, and reversions transferred after April 30, 1999, is the present value of such interests determined under paragraph (d)(2) of this section and by use of standard or special section 7520 actuarial factors. These factors are derived by using the appropriate section 7520 interest rate and, if applicable, the mortality component for the valuation date of the interest that is being valued. See §§ 25.7520–1 through 25.7520–4. The fair market value of a qualified annuity interest described in section 2702(b)(1) and a qualified unitrust interest described in section 2702(b)(2) is the present value of such interests determined under § 25.7520–1(c).

(2) *Specific interests.* When the donor transfers property in trust or otherwise and retains an interest therein, generally, the value of the gift is the value of the property transferred less the value of the donor's retained interest. However, if the donor transfers property after October 8, 1990, to or for the benefit of a member of the donor's family, the value of the gift is the value of the property transferred less the value of the donor's retained interest as determined under section 2702. If the donor assigns or relinquishes an annuity, life estate, remainder, or reversion that the donor holds by virtue of a transfer previously made by the donor or another, the value of the gift is the value of the interest transferred. However, see section 2519 for a special rule in the case of the assignment of an income interest by a person who received the interest from a spouse.

(i) *Charitable remainder trusts.* The fair market value of a remainder interest in a pooled income fund, as defined in § 1.642(c)–5 of this chapter, is its value determined under § 1.642(c)–6T(e) of this chapter (see § 1.642(c)–6A for certain prior periods). The fair market value of a remainder interest in a charitable remainder annuity trust, as described in § 1.664–2(a) of this chapter, is its present value determined under § 1.664–2(c) of this chapter. The fair market value of a remainder interest in a charitable remainder unitrust, as defined in § 1.664–3 of this chapter, is its present value determined under § 1.664–4T(e) of this chapter. The fair market value of a life interest or term for years in a charitable remainder unitrust is the fair market value of the property as of the date of transfer less the fair market value of the remainder interest, determined under § 1.664–4T(e)(4) and (5) of this chapter.

(ii) *Ordinary remainder and reversionary interests.* If the interest to be valued is to take effect after a definite number of years or after the death of one individual, the present value of the interest is computed by multiplying the value of the property by the appropriate remainder interest actuarial factor (that corresponds to the applicable section 7520 interest rate and remainder interest period) in Table B (for a term certain) or the appropriate Table S (for one measuring life), as the case may be. Table B is contained in § 20.2031–7(d) of this chapter and Table S (for one measuring life when the valuation date is after April 30, 1999) is included in § 20.2031–7T(d)(7) of this chapter and Internal Revenue Service Publication 1457. See § 20.2031–7A(e)(4) of this chapter containing Table S and Life Table 80CNSMT for valuation of interests after April 30, 1989, and before May 1, 1999. For information about obtaining actuarial factors for other types of remainder interests, see paragraph (d)(4) of this section.

(iii) *Ordinary term-of-years and life interests.* If the interest to be valued is the right of a person to receive the income of certain property, or to use certain nonincome-producing property, for a term of years or for the life of one individual, the present value of the interest is computed by multiplying the value of the property by the appropriate term-of-years or life interest actuarial factor (that corresponds to the applicable section 7520 interest rate and term-of-years or life interest period). Internal Revenue Service Publication 1457 includes actuarial factors for an interest for a term of years in Table B and for the life of one individual in Table S (for one measuring life when the valuation date is after April 30, 1999). However, term-of-years and life interest actuarial factors are not included in Table B in § 20.2031–7(d)(6) or Table S in § 20.2031–7T(d)(7) (or in § 20.2031–7A(e)(4)) of this chapter. If Internal Revenue Service Publication 1457 (or any other reliable source of term-of-years and life interest actuarial factors) is not conveniently available, an actuarial factor for the interest may be derived mathematically. This actuarial factor may be derived by subtracting the correlative remainder factor (that corresponds to the applicable section 7520 interest rate and the term of years or the life) in Table B (for a term of years) in § 20.2031–7(d)(6) of this chapter or in Table S (for the life of one individual) in § 20.2031–7T(d)(7) of this chapter, as the case may be, from 1.000000. For information about obtaining actuarial factors for other types of term-of-years and life interests, see paragraph (d)(4) of this section.

(iv) *Annuities.* (A) If the interest to be valued is the right of a person to receive an annuity that is payable at the end of each year for a term of years or for the life of one individual, the present value of the interest is computed by multiplying the aggregate amount

payable annually by the appropriate annuity actuarial factor (that corresponds to the applicable section 7520 interest rate and annuity period). Internal Revenue Service Publication 1457 includes actuarial factors in Table B (for an annuity payable for a term of years) and in Table S (for an annuity payable for the life of one individual when the valuation date is after April 30, 1999). However, annuity actuarial factors are not included in Table B in § 20.2031–7(d)(6) of this chapter or Table S in § 20.2031–7T(d)(7) (or in § 20.2031–7A(e)(4)) of this chapter. If Internal Revenue Service Publication 1457 (or any other reliable source of annuity actuarial factors) is not conveniently available, an annuity factor for a term of years or for one life may be derived mathematically. This annuity factor may be derived by subtracting the applicable remainder factor (that corresponds to the applicable section 7520 interest rate and annuity period) in Table B (in the case of a term-of-years annuity) in § 20.2031–7(d)(6) of this chapter or in Table S (in the case of a one-life annuity) in § 20.2031–7T(d)(7) of this chapter, as the case may be, from 1.000000 and then dividing the result by the applicable section 7520 interest rate expressed as a decimal number. See § 20.2031–7T(d)(2)(iv) of this chapter for an example that illustrates the computation of the present value of an annuity.

(B) If the annuity is payable at the end of semiannual, quarterly, monthly, or weekly periods, the product obtained by multiplying the annuity factor by the aggregate amount payable annually is then multiplied by the applicable adjustment factor set forth in Table K in § 20.2031–7(d)(6) of this chapter at the appropriate interest rate component for payments made at the end of the specified periods. The provisions of this paragraph (d)(2)(iv)(B) are illustrated by the following example:

Example. In July, the donor agreed to pay the annuitant the sum of $10,000 per year, payable in equal semiannual installments at the end of each period. The semiannual installments are to be made on each December 31st and June 30th. The annuity is payable until the annuitant's death. On the date of the agreement, the annuitant is 68 years and 5 months old. The donee annuitant's age is treated as 68 for purposes of computing the present value of the annuity. The section 7520 rate on the date of the agreement is 10.6 percent. Under Table S in § 20.2031–7T(d)(7) of this chapter, the factor at 10.6 percent for determining the present value of a remainder interest payable at the death of an individual aged 68 is .29691. Converting the remainder factor to an annuity factor, as described above, the annuity factor for determining the present value of an annuity transferred to an individual age 68 is 6.6329 (1.00000 minus .29691 divided by .106). The adjustment factor from Table K in § 20.2031–7(d)(6) of this chapter in the column for payments made at the end of each semiannual period at the rate of 10.6 percent is 1.0258. The aggregate annual amount of the annuity, $10,000, is multiplied by the factor 6.6329 and the product multiplied by 1.0258. The present value of the donee's annuity is, therefore, $68,040.29 ($10,000 × 6.6329 × 1.0258).

(C) If an annuity is payable at the beginning of annual, semiannual, quarterly, monthly, or weekly periods for a term of years, the value of the annuity is computed by multiplying the aggregate amount payable annually by the annuity factor described in paragraph (d)(2)(iv)(A) of this section; and the product so obtained is then multiplied by the adjustment factor in Table J in § 20.2031–7(d)(6) of this chapter at the appropriate interest rate component for payments made at the beginning of specified periods. If an annuity is payable at the beginning of annual, semiannual, quarterly, monthly, or weekly periods for one or more lives, the value of the annuity is the sum of the first payment plus the present value of a similar annuity, the first payment of which is not to be made until the end of the payment period, determined as provided in paragraph (d)(2)(iv)(B) of this section.

(v) *Annuity and unitrust interests for a term of years or until the prior death of an individual*—(A) *Annuity interests.* The present value of an annuity interest that is payable until the earlier to occur of the lapse of a specific number of years or the death of an individual may be computed with values from the tables in §§ 20.2031–7(d)(6) and 20.2031–7T(d)(7) of this chapter as described in the following example:

Example. The donor transfers $100,000 into a trust and retains the right to receive an annuity from the trust in the amount of $6,000 per year, payable in equal semiannual installments at the end of each period. The semiannual installments are to be made on each June 30th and December 31st. The annuity is payable for 10 years or until the donor's prior death. At the time of the transfer, the donor is 59 years and 6 months old. The donor's age is taken as 60 for purposes of computing the present value of the retained annuity. The section 7520 rate for the month in which the transfer occurred is 9.8 percent. The present value of the donor's retained interest is $35,709.13, determined as follows:

TABLE S value at 9.8 percent, age 60	.21669
TABLE S value at 9.8 percent, age 70	.34762
TABLE 90CM value at age 70	71357
TABLE 90CM value at age 60	85537
TABLE B value at 9.8 percent, 10 years	.392624
TABLE K value at 9.8 percent	1.0239

Factor for donor's retained interest at 9.8 percent:

$$\frac{(1.00000 - .21669) - (.392624 \times (71357/85537) \times (1.00000 - .34762))}{.098} = 5.8126$$

Present value of donor's retained interest: ($6,000 × 5.8126 × 1.0239)	$35,709.13

(B) *Unitrust interests.* The present value of a unitrust interest that is payable until the earlier to occur of the lapse of a specific number of years or the death of an individual may be computed with values from the tables in §§ 1.664–4(e)(6) and 1.664-4T(e)(7) of this chapter as described in the following example:

Example. The donor who, as of the nearest birthday, is 60 years old, transfers $100,000 to a unitrust on January 1st. The trust instrument requires that each year the trust pay to the donor, in equal semiannual installments on June 30th and December 31st, 6 percent of the fair market value of the trust assets, valued as of January 1st each year, for 10 years or until the prior death of the donor. The section 7520 rate for the January in which the transfer occurred is 9.8 percent. Under Table F(9.8) in § 1.664–4(e)(6) of this chapter, the appropriate adjustment factor is .932539 for semiannual payments payable at the end of the semiannual period. The adjusted payout rate is 5.595 percent (6% × .932539). The present value of the donor's retained interest is $40,848.00 determined as follows:

TABLE U(1) value at 5.6 percent, age 60	.35375
TABLE U(1) value at 5.6 percent, age 70	.49342
TABLE 90CM value at age 70	71357
TABLE 90CM value at age 60	85537
TABLE D value at 5.6 percent, 10 years	.561979

Factor for donor's retained interest at 5.6 percent:

$(1.000000 - .35375) - (.561979 \times (71357/85537) \times (1.000000 - .49342)) = .40876$

TABLE U(1) value at 5.4 percent, age 60	.36542
TABLE U(1) value at 5.4 percent, age 70	.50473
TABLE 90CM value at age 70	71357
TABLE 90CM value at age 60	85537
TABLE D value at 5.4 percent, 10 years	.573999

Factor for donor's retained interest at 5.4 percent:

$$(1.000000 - .36542) - (.573999 \times (71357/85537) \times (1.000000 - .50473)) = \underset{\text{Difference...}}{\frac{.39742}{.01134}}$$

Interpolation adjustment:

$$\frac{5.595\% - 5.4\%}{0.2\%} = \frac{\times}{.01134}$$

$$\times = .01106$$

Factor at 5.4 percent, age 60	.39742
Plus: Interpolation adjustment	.01106
Interpolated Factor	.40848
Present value of donor's retained interest: ($100,000 × .40848)	$40,848.00

(3) *Transitional rule.* If the valuation date of a transfer of property by gift is after April 30, 1999, and before July 1, 1999, the fair market value of the interest transferred is determined by use of the section 7520 interest rate for the month in which the valuation date occurs (See §§ 25.7520–1(b) and 25.7520–2(a)(2)) and the appropriate actuarial tables under either paragraph (d)(2) of this section or § 25.2512–5A(e), at the option of the donor. However, with respect to each individual transaction and with respect to all transfers occurring on the valuation date, the donor must use the same actuarial tables (e.g., gift and income tax charitable deductions with respect to the same transfer must be determined based on the same tables, and all transfers made on the same date must be valued based on the same tables).

(4) *Publications and actuarial computations by the Internal Revenue Service.* Many standard actuarial factors not included in § 20.2031–7(d)(6) or § 20.2031–7T(d)(7) of this chapter are included in Internal Revenue Service Publication 1457, ''Actuarial Values, Book Aleph,'' (1999). Internal Revenue Service Publication 1457 also includes examples that illustrate how to compute many special factors for more unusual situations. A copy of this publication is available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. If a special factor is required in the case of a completed gift, the Service may furnish the factor to the donor upon a request for a ruling. The request for a ruling must be accompanied by a recitation of the facts including a statement of the date of birth for each measuring life, the date of the gift, any other applicable dates, and a copy of the will, trust, or other relevant documents. A request for a ruling must comply with the instructions for requesting a ruling published periodically in the Internal Revenue Bulletin (see §§ 601.201 and 601.601(d)(2)(ii)(*b*) of this chapter) and include payment of the required user fee.

(e) *Effective dates.* This section applies after April 30, 1999.

Par. 27. The undesignated centerheading immediately following § 25.2518–3 is revised to read as follows:

Actuarial Tables Applicable Before May 1, 1999

Par. 28. Section 25.2512–5A is amended by:

1. Revising the section heading.
2. Adding paragraph (e).

The revision and addition read as follows:

§ 25.2512–5A Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests transferred before May 1, 1999.

* * * * *

(e) *Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests transferred after April 30, 1989, and before May 1, 1999*—(1) *In general.* Except as otherwise provided in §§ 25.2512–5(b) and 25.7520–3(b) (pertaining to certain limitations on the use of prescribed tables), if the valuation date of the transferred interest is after April 30, 1989, and before May 1, 1999, the fair market value of annuities, unitrust interests, life estates, terms of years, remainders, and reversions transferred by gift is the present value of the interests determined by use of standard or special section 7520 actuarial factors and the valuation methodology described in § 25.2512–5T(d). Sections 20.2031–7(d)(6) and 20.2031–7A(e)(4) of this chapter and related sections provide tables with standard actuarial factors and examples that illustrate how to use the tables to compute the present value of ordinary annuity, life, and remainder interests in property. These sections also refer to standard and special actuarial factors that may be necessary to compute the present value of similar interests in more unusual fact situations. These factors and examples are also generally applicable for gift tax purposes in computing the values of taxable gifts.

(2) *Transitional rule.* (i) If the valuation date of a transfer of an interest in property by gift is after April 30, 1989, and before June 10, 1994, a donor can rely on Notice 89–24 (1989–1 C.B. 660), or Notice 89–60 (1989–1 C.B. 700), in valuing the transferred interest. (See § 601.601(d)(2)(ii)(*b*) of this chapter.)

(ii) If a donor transferred an interest in property by gift after December 31, 1988, and before May 1, 1989, retaining an interest in the same property, and after April 30, 1989, and before January 1, 1990, transferred the retained interest in property, the donor may, at the option of the donor, value the transfer of the retained interest under this paragraph (e) or paragraph (d) of this section.

(3) *Publications and actuarial computations by the Internal Revenue Service.* Many standard actuarial factors not included in §§ 20.2031–7(d)(6) and 20.2031–7A(e)(4) of this chapter are included in Internal Revenue Service Publication 1457, ''Actuarial Values, Alpha Volume,'' (8–89). Internal Revenue Service Publication 1457 also includes examples that illustrate how to compute many special factors for more unusual situations. Publication 1457 is

no longer available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402. However, pertinent factors in this publication may be obtained from: CC:DOM:CORP:R (IRS Publication 1457), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. If a special factor is required in the case of a completed gift, the Internal Revenue Service may furnish the factor to the donor upon a request for a ruling. The request for a ruling must be accompanied by a recitation of the facts including a statement of the date of birth for each measuring life, the date of the gift, any other applicable dates, and a copy of the will, trust, or other relevant documents. A request for a ruling must comply with the instructions for requesting a ruling published periodically in the Internal Revenue Bulletin (see §§ 601.201 and 601.601(d)(2)(ii)(*b*) of this chapter) and include payment of the required user fee.

Par. 29. Section 25.7520–1 is amended as follows:

1. Paragraph (b)(2), the last two sentences are revised.

2. The headings for paragraphs (c)(1) and (c)(2) are revised.

3. Paragraph (c)(2) introductory text is revised.

4. Paragraph (c)(2)(iii) is amended by removing the first two sentences and adding one sentence in their place.

5. Paragraph (d) is revised.

The revised and added provisions read as follows:

§ 25.7520–1 Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests.

* * * * *

(b) * * *

(2) * * * For gifts with valuation dates after April 30, 1989, and before May 1, 1999, the mortality component table (Table 80CNSMT) is included in § 20.2031–7A(e)(4) of this chapter. See § 20.2031–7A(a) through (d) of this chapter for mortality component tables applicable to decedents' estates with valuation dates before May 1, 1989.

(c) * * *

(1) *Regulations sections containing tables with interest rates between 4.2 and 14 percent for valuation dates after April 30, 1989, and before May 1, 1999.* * * *

(2) *Internal Revenue Service publications containing tables with interest rates between 2.2. and 26 percent for valuation dates after April 30, 1989, and before May 1, 1999.* The following publications are no longer available from the Superintendent of Documents, however, they may be obtained from: CC:DOM:CORP:R, room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044:

* * * * *

(iii) Internal Revenue Service Publication 1459, ''Actuarial Values, Gamma Volume,'' (8–89). * * *

(d) *Effective date.* This section applies after April 30, 1989, and before May 1, 1999.

Par. 30. Section 25.7520–1T is added to read as follows:

§ 25.7520–1T Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests (temporary).

(a) through (b) (1) [Reserved]. For further guidance, see § 25.7520–1(a) through (b)(1).

(b)(2) *Mortality component.* The mortality component reflects the mortality data most recently available from the United States Census. As new mortality data becomes available after each decennial census, the mortality component described in this section will be revised periodically and the mortality component tables will be published in the regulations at that time. For gifts with valuation dates after April 30, 1999, the mortality component table (Table 90CM) is included in § 20.2031–7T(d)(7) of this chapter. See § 20.2031–7A of this chapter for mortality component tables applicable to decedent's estates with valuation dates before May 1, 1999.

(c) [Reserved]. For further guidance, see § 25.7520–1(c).

(1) *Regulation sections containing tables with interest rates between 4.2 and 14 percent for valuation dates after April 30, 1999.* Section 1.642(c)–6T(e)(6) of this chapter contains Table S used for determining the present value of a single life remainder interest in a pooled income fund as defined in § 1.642(c)–5 of this chapter. See § 1.642(c)–6A for actuarial factors for one life applicable to valuation dates before May 1, 1999. Section 1.664–4(e)(6) of this chapter contains Table F (payout factors) and Table D (actuarial factors used in determining the present value of a remainder interest postponed for a term of years). Section 1.664–4T(e)(7) of this chapter contains, Table U(1) (actuarial factors for one life). These tables are used in determining the present value of a remainder interest in a charitable remainder unitrust as defined in § 1.664–3 of this chapter. See § 1.664–4A for actuarial factors for one life applicable to valuation dates before May 1, 1999. Section 20.2031–7(d)(6) of this chapter contains Table B (actuarial factors used in determining the present value of an interest for a term of years), Table K (annuity end-of-interval adjustment factors), Table J (term certain annuity beginning-of-interval adjustment factors). Section 20.2031–7T(d)(7) of this chapter contains Table S (actuarial factors for one life) and Table 90CM (mortality components). These tables are used in determining the present value of annuities, life estates, remainders, and reversions. See § 20.2031–7A of this chapter for actuarial factors for one life and mortality components applicable to valuation dates before May 1, 1999.

(2) *Internal Revenue Service publications containing tables with interest rates between 2.2 and 26 percent for valuation dates after April 30, 1999.* The following documents are available for purchase from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402:

(i) Internal Revenue Service Publication 1457, ''Actuarial Values, Book Aleph,'' (1999). This publication includes tables of valuation factors, as well as examples that show how to compute other valuation factors, for determining the present value of annuities, life estates, terms of years, remainders, and reversions, measured by one or two lives. These factors may also be used in the valuation of interests in a charitable remainder annuity trust as defined in § 1.664–2 of this chapter (Income Tax Regulations) and a pooled income fund as defined in § 1.642(c)–5 of this chapter.

(ii) Internal Revenue Service Publication 1458, ''Actuarial Values, Book Beth,'' (1999). This publication includes term certain tables and tables of one and two life valuation factors for determining the present value of remainder interests in a charitable remainder unitrust as defined in § 1.664–3 of this chapter.

(iii) Internal Revenue Service Publication 1459, ''Actuarial Values, Book Gimel,'' (1999). This publication includes tables for computing depreciation adjustment factors. See § 1.170A–12T of this chapter.

(d) *Effective date.* This section applies after April 30, 1999.

Par. 31. Section 25.7520–3 is amended as follows:

1. In paragraph (b)(2)(v), *Example 5* is revised.

2. In paragraph (b)(4), the *Example* is revised.

The revised examples read as follows:

§ 25.7520–3 Limitation on the application of section 7520.

* * * * *

(b) * * *

(2) * * *

(v) * * *

Example 5. Eroding corpus in an annuity trust. (i) The donor, who is age 60 and in normal health, transfers property worth $1,000,000 to a trust. The trust will pay a 10 percent ($100,000 per year) annuity to a charitable organization for the life of the donor, payable annually at the end of each period, and the remainder will be distributed to the donor's child. The section 7520 rate for the month of the transfer is 6.8 percent. First, it is necessary to determine whether the annuity may exhaust the corpus before all annuity payments are made. Because it is assumed that any measuring life may survive until age 110, any life annuity could require payments until the measuring life reaches age 110. Based on a section 7520 interest rate of 6.8 percent, the determination of whether the annuity may exhaust the corpus before the annuity payments are made is computed as follows:

Age to which life annuity may continue	110
less: Age of measuring life at date of transfer	60
Number of years annuity may continue	50
Annual annuity payment	$100,000.00
Times: Annuity factor for 50 years derived from Table B	14.1577
Present value of term certain annuity	$1,415,770.00

(ii) Since the present value of an annuity for a term of 50 years exceeds the corpus, the annuity may exhaust the trust before all payments are made. Consequently, the annuity must be valued as an annuity payable for a term of years or until the prior death of the annuitant, with the term of years determined by when the fund will be exhausted by the annuity payments.

(iii) Using factors based on Table 90CM at 6.8 percent (see § 20.2031–7T(d)(7) of this chapter), it is determined that the fund will be sufficient to make 17 annual payments, but not to make the entire 18th payment. Specifically, the initial corpus will be able to make payments of $67,287.26 per year for 17 years plus payments of $32,712.74 per year for 18 years. The annuity is valued by adding the value of the two separate temporary annuities.

(iv) Based on Table H of Publication 1457 (a copy of this publication may be purchased from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402), the present value of an annuity of $67,287.26 per year payable for 17 years or until the prior death of a person aged 60 is $588,016.64 ($67,287.26 × 8.7389). The present value of an annuity of $32,712.74 per year payable for 18 years or until the prior death of a person aged 60 is $292,196.74 ($32,712.74 × 8.9322). Thus, the present value of the charitable annuity interest is $880,213.38 ($588,016.64 + $292,196.74).

* * * * *

(4) * * *

Example. Terminal illness. The donor transfers property worth $1,000,000 to a child in exchange for the child's promise to pay the donor $103,000 per year for the donor's life, payable annually at the end of each period. The donor is age 60 but has been diagnosed with an incurable illness and has at least a 50 percent probability of dying within 1 year. The section 7520 interest rate for the month of the transfer is 10.6 percent, and the standard annuity factor at that interest rate for a person age 60 in normal health is 7.5590. Thus, if the donor were not terminally ill, the present value of the annuity would be $778,577 ($103,000 × 7.5590). Assuming the presumption provided in paragraph (b)(3) of this section does not apply, because there is at least a 50 percent probability that the donor will die within 1 year, the standard section 7520 annuity factor may not be used to determine the present value of the donor's annuity interest. Instead, a special section 7520 annuity factor must be computed that takes into account the projection of the donor's actual life expectancy.

* * * * *

Par. 32. In the list below, for each section indicated in the left column, remove the language in the middle column and add the language in the right column:

Section	Remove	Add
1.170A–6(c)(5), *Example (1),* first and last sentence	1970	1971.
1.170A–6(c)(5), *Example (2)(a),* first sentence	1970	
1.170A–6(c)(5), *Example (3)(a),* first, sixth, seventh and eighth sentences.	1970	1971.
1.170A–6(c)(5), *Example (3)(a),* seventh and eighth sentences	1971	1972.
1.170A–6(c)(5), *Example (3)(a),* seventh and eighth sentences	1972	1973.
1.170A–6(c)(5), *Example (3)(b),* introductory text	1970	1971.
1.170A–6(c)(5), *Example (3)(b),* Table headings	Jan. 1, 1970	Jan. 1, 1971.
1.170A–6(c)(5), *Example (3)(b),* column 1 of table	Dec. 31, 1970	Dec. 31, 1971.
1.170A–6(c)(5), *Example (3)(b),* column 1 of table	Dec. 31, 1971	Dec. 31, 1972.
1.170A–6(c)(5), *Example (3)(b),* column 1 of table	Dec. 31, 1972	Dec. 31, 1973.
1.170A–6(c)(5), *Example (3)(c)*	1972	1973.
1.170A–6(c)(5), *Example (3)(d)*	1972	1973.
1.170A–12(b)(2), paragraph heading	Factor	Factor before May 1, 1999.
1.170A–12(b)(2), fourth sentence	April 30, 1989,	April 30, 1989, and before May 1, 1999.
1.170A–12(b)(2), sixth sentence	CC:DOM:CORP:T:R	CC:DOM:CORP:R.
1.170A–12(b)(2), sixth sentence	Room 5228	Room 5226.
1.170A–12(c), first sentence	Paragraph (f) of such sections	§ 20.2031–7(d)(6) of this chapter.
1.170A–12(e)(2), following the formula	Table 80CNSMT in § 20.2031–7	Table 90CM in § 20.2031–7T.
1.170A–12(e)(3), last sentence	E:A:G	OP:E:EP:A:1.
1.170A–14(h)(4), *Example 2,* fourth sentence	December 1, 1983	May 1, 1999.
1.642(c)–A6(e)(2)(i)	§ 20.2031–7(d)(6)	§ 20.2031–7A(e)(4).
1.664–1(a)(5)(ii)(*b*)(*1*)	Column 2 of Table D In § 1.664–4A(d)(6).	Table D in § 1.664–4(e)(6).
1.664–1(a)(5)(iv), introductory text	(iii) of this section:	(ii) of this section.

Section	Remove	Add
1.664–1(a)(6), introductory text	§ 1.664–4(e), § 1.664–4(A) (d), and former § 1.664–4 (d) (as contained in the 26 CFR part 1 edition revised as of April 1, 1994).	§§ 1.664–4T(e), 1.664–4T(e) and 1.664–4A(d) and (e).
1.664–2(c)	April 30, 1989	April 30, 1999.
1.664–2(c), sixth sentence	§ 20.2031–7A(a) through (d)	§ 20.2031–7A (a) through (e).
1.664–2(c), sixth sentence	May 1, 1989	May 1, 1999.
1.664–2(c)	Last sentence.	
1.7520–1(a)(2)	1989, see § 1.642(c)–6(e)	1999, see § 1.642(c)–6T(e).
1.7520–1(a)(3), last sentence	(Or, for certain prior periods, § 1.664–4A).	
1.7520–1(c)(1), first sentence	Section 1.642(c)–6(e)(4)	Section 1.642(c)–6A(e)(5).
1.7520–1(c)(1), second sentence	Section 1.664–4(e)(6) contains	Sections 1.664–4(e)(6) and 1.664–4A(e)(6) contain.
1.7520–1(c)(1), third sentence	Section 20.2031–7(d)(6) of this chapter (Estate Tax Regulations) contains.	Sections 20.2031–7(d)(6) and 20.2031–7A(e)(4) of this chaptercontain.
20.2032–1(f)(1), fourth sentence	Paragraph (d) of § 20.2031–7(A)(d).	§ 20.2031–7A(d)(4).
20.2055–2(f)(2)(iv), *Example (1),* second sentence	§ 20.2031–10(f)	§ 20.2031–7A(d).
20.2055–2(f)(2)(iv) *Example (2),* second sentence	§ 20.2031–10(f)	§ 20.2031–7A(d).
20.2055–2(f)(2)(iv), *Example (3),* second sentence	§ 20.2031–10(e)	§ 20.2031–7A(c).
20.2055–2(f)(2)(iv), *Example (3),* third sentence	§ 20.2031–10(f)	§ 20.2031–7A(d).
20.2056A–4(c)(4)(ii)(B), penultimate sentence	Alpha Volume	Book Aleph.
20.2056A–4(d), *Example 4(iii),* second sentence	Alpha Volume	Book Aleph.
20.7520–1(a)(2)	1989, see § 1.642(c)–6(e)	1999, see § 1.642(c)–6T(e).
20.7520–1(a)(3), second sentence	(Or, for certain prior periods, § 1.664–4A)..	
20.7520–1(c)(1), first sentence	Section 1.642(c)–6(e)(4)	Section 1.642(c)–6A(e)(5).
20.7520–1(c)(1), second sentence	Section 1.664–4(e)(6) of this chapter contains.	Sections 1.664–4(e)(6) and 1.664–4A(e)(6) of this chapter contain.
20.7520–1(c)(1), third sentence	Section 20.2031–7(d)(6) contains	Sections 20.2031–7(d)(6) and 20.2031–7A(e)(4) contain.
25.7520–1(a)(2)	1989, see § 1.642(c)–6(e)	1999, see § 1.642(c)–6T(e).
25.7520–1(a)(3), last sentence	(Or, for certain prior periods, § 1.664–4A).	
25.7520–1(c)(1), first sentence	Section 1.642(c)–6(e)(4)	Section 1.642(c)–6A(e)(5).
25.7520–1(c)(1), second sentence	Section 1.664–4(e)(6) of this chapter contains.	Sections 1.664–4(e)(6) and 1.664–4A(e)(6) of this chapter contain.
25.7520–1(c)(1), third sentence	Section 20.2031–7(d)(6), (Estate Tax Regulations) contains.	Sections 20.2031–7(d)(6) and 20.2031–7A(e)(4) contain.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: April 21, 1999.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 99–10533 Filed 4–29–99; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[CC Docket No. 98–147; FCC 99–48]

Deployment of Wireline Services Offering Advanced Telecommunications Capability

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document adopts several measures designed to promote competition in the advanced services markets. The intended effect is to remove barriers to competition so that competing providers are able to compete effectively with incumbent local exchange carriers (LECs) and their affiliates in the provision of advanced services. An additional effect of the First Report and Order is to ensure that incumbent LECs are able to make their decisions to invest in, and deploy, advanced telecommunications services based on market demand and their own strategic business plans, rather than on regulatory requirements.

DATES: Effective June 1, 1999, except for 47 CFR 51.321(f) and 51.321(h) and 51.323(b) and (i)(3), which contain information collection requirements that are not effective until approved by the Office of Management and Budget. The FCC will publish a document in the **Federal Register** announcing the effective date for those sections. Written comments regarding the Paperwork Reduction Act requirements should be submitted on or before May 13, 1999.

FOR FURTHER INFORMATION CONTACT: Staci Pies, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418–1580 or via the Internet at spies@fcc.gov. Further information may also be obtained by calling the Common Carrier Bureau's TTY number: 202–418–0484. For additional information concerning the information collections contained in this Order contact Judy Boley at (202) 418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's First Report and Order adopted March 18, 1999, and released March 31, 1999. The full text of this First Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, S.W., Room CY–A257, Washington, D.C. The complete text also may be obtained through the World Wide Web, at http://www.fcc.gov/Bureaus/Common Carrier/Orders/fcc9948.wp, or may be purchased from the Commission's copy

contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th St., N.W., Washington, D.C. 20036. This First Report and Order contains information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. The general public and other federal agencies are invited to comment on the information collections contained in this proceeding. The Commission has requested an emergency review of the collections with an approval by May 13, 1999.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act, the First Report and Order contains a Final Regulatory Flexibility Analysis which is set forth in the First Report and Order. A brief description of the analysis follows. Pursuant to section 604 of the Regulatory Flexibility Act, the Commission performed a comprehensive analysis of the Order with regard to small entities. This analysis includes: (1) a succinct statement of the need for, and objectives of, the Commission's decisions in the Order; (2) a summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the Commission's assessment of these issues, and a statement of any changes made in the Order as a result of the comments; (3) a description of and an estimate of the number of small entities to which the Order will apply; (4) a description of the projected reporting, recordkeeping and other compliance requirements of the Order, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for compliance with the requirement; (5) a description of the steps the Commission has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the Order and why each one of the other significant alternatives to each of the Commission's decisions which affect small entities was rejected.

Paperwork Reduction Act

This Report and Order contains new and modified information collections. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collections contained in this Order, as required by the Paperwork Reduction Act of 1995, Public Law 104–12. Persons wishing to comment on the information collections should submit comments on or before May 13, 1999. Comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall practical utility; (b) the accuracy of the Commission's burden estimates; (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.

OMB Approval Number: 3060–0848.

Title: Deployment of Wireline Services Offering Advanced Telecommunications Capability.

Form No.: N/A.

Type of Review: Revised collection.

Information collection	No. of respondents (approx.)	Estimated time per response	Total annual burden (hours)
List of Equipment	1400	1 hour	1400
Report of Available Collocation Space	1400	1 hour	1400
Information on Security Training	1400	30 minutes	700
Access to Spectrum Management Procedures and Policies	1400	30 minutes	700
Rejection and Loop Information	1400	1 hour	1400
Notification of Performance Degradation	1400	30 minutes	700

Total Annual Burden: 6300 hours.

Respondents: Businesses or other for-profit.

Estimated costs per respondent: $0.

Needs and Uses: The Commission seeks to implement Congress's goal of promoting innovation and investment by all participating in the telecommunications marketplace, in order to stimulate competition for all services, including advanced services. In fulfillment of this goal, the Commission imposes certain collections of information on all incumbent local exchange carriers. Among other things, ILECs must provide a list of equipment to competitive LECs, submit to requesting carriers a report concerning collocation space, provide the specific type of security training a competitive LEC's employees must complete, etc. All of the requirements will be used by the Commission and by competitive carriers to facilitate the deployment of advanced data services and to implement section 706 of the Communications Act of 1934, as amended.

Synopsis of Order

I. Introduction

1. One of the fundamental goals of the Telecommunications Act of 1996 (1996 Act) is to promote innovation and investment by all participants in the telecommunications marketplace, in order to stimulate competition for all services, including advanced services. In this order, we take important steps towards implementing Congress' goals with respect to advanced services.

2. The market for advanced telecommunications is a nascent one. Today, both incumbent local exchange carriers (LECs) and new entrants are at the early stages of developing and deploying innovative new technologies to meet the ever-increasing demand for high-speed, high-capacity advanced services. Because it is in the early stages of development, the advanced services market is ripe for competition to develop in a robust fashion. In order to encourage competition among carriers to develop and deploy new advanced services, it is critical that the marketplace for these services be conducive to investment, innovation, and meeting the needs of consumers.

3. To this end, we are committed to removing barriers to competition so that competing providers are able to compete effectively with incumbent LECs and their affiliates in the provision of advanced services. We are also committed to ensuring that incumbent LECs are able to make their decisions to invest in, and deploy, advanced telecommunications services based on market demand and their own strategic business plans, rather than on regulatory requirements. We intend to

take deregulatory steps towards meeting this goal in a subsequent order.

4. In this order, we adopt several measures that we believe will promote competition in the advanced services markets. We fully expect that these measures will create incentives for providers of advanced services to innovate and to develop and deploy new technologies and services on a more efficient and expeditious basis. As a result, consumers will ultimately benefit through lower prices and increased choices in advanced services.

II. Overview and Executive Summary

A. Overview

5. Increasingly, electronic communications are becoming digital and are transmitted by means of ''packet switching.'' Packet-switched transmission of information promises a revolution in information, communications services, and entertainment by offering businesses, residential users, schools and libraries, and other end users of information the ability to access and send large amounts of information very quickly across the street or across the globe. Moreover, for wireline carriers, digital subscriber line technologies are making it possible for ordinary citizens to access various networks, such as the Internet, corporate networks, and governmental networks, at high speeds through the existing copper telephone lines that connect their residences or businesses to the incumbent LEC's central office. The existing infrastructure is being used in new ways that make available to average citizens a variety of new services and vast improvements to existing services.

6. We adopt, in this order, additional measures to further facilitate the development of competition in the advanced services market. First, we strengthen our collocation rules to reduce the costs and delays faced by competitors that seek to collocate equipment in an incumbent LEC's central office. For example, we require incumbent LECs to make available to requesting competitive LECs shared cage and cageless collocation arrangements. Moreover, when collocation space is exhausted at a particular LEC location, we require incumbent LECs to permit collocation in adjacent controlled environmental vaults or similar structures to the extent technically feasible. Second, we adopt certain spectrum compatibility rules and adopt a Further Notice of Proposed Rulemaking (Further NPRM) to explore issues related to developing long-term standards and practices for spectrum compatibility and management. Finally, in the Further NPRM, we consider whether we should require LECs to allow competitors to offer advanced services to end users over the same line on which the LEC is offering voice service.

7. We intend to address, in a future order, other specific forms of regulatory relief that may be needed to stimulate investment and deployment of advanced services by incumbents or new entrants, or whether other changes to the Commission's local competition rules may facilitate deployment of advanced services by competing carriers. For example, in the *Advanced Services Order and NPRM,* 63 FR 45134, August 24, 1998, we had proposed an option under which incumbent LECs would be free to establish separate affiliates to provide advanced services that would not be subject to section 251(c) obligations if those affiliates were structured in a fashion so as not to be deemed a successor or assign of the incumbent. We also sought comment on the applicability of section 251(c)(4) resale obligations to advanced services to the extent such services are exchange access services. In addition, the NPRM proposed limited modifications of LATA boundaries. We also had set forth proposals in the *Advanced Services Order and NPRM* relating to incumbent LEC loop unbundling obligations. We are deferring action on those issues and proposals.

B. Executive Summary

8. In the Order, we take the following steps:

Collocation

- Incumbent LECs must make available to requesting competitive LECs shared cage and cageless collocation arrangements. Moreover, when collocation is exhausted at a particular LEC location, incumbent LECs must permit collocation in adjacent controlled environmental vaults or similar structures to the extent technically feasible.
- A collocation method used by one incumbent LEC or mandated by a state commission is presumptively technically feasible for any other incumbent LEC.
- Incumbent LECs may adopt reasonable security measures to protect their central office equipment.
- Incumbent LECs may not require competitive LEC equipment to meet more stringent safety requirements than those the incumbent LEC imposes on its own equipment.
- Incumbent LECs must permit competitors to collocate all equipment used for interconnection and/or access to unbundled network elements (UNEs), even if it includes a ''switching'' or enhanced services function, and incumbent LECs cannot require that the switching or enhanced services functionality of equipment be disengaged.
- Incumbent LECs must permit a competitive LEC to tour the entire central office in which that competitive LEC has been denied collocation space. Incumbent LECs must provide a list of all offices in which there is no more space. Incumbent LECs must remove obsolete, unused equipment, in order to facilitate the creation of additional collocation space within a central office.
- The collocation rules set forth in the Order serve as minimum standards, and permit any state to adopt additional requirements.

Spectrum Compatibility

- We adopt certain spectrum compatibility and management rules to allow competitive providers to deploy innovative advanced services technology in a timely manner. Specifically, any loop technology that complies with existing industry standards, has been successfully deployed by any carrier without significantly degrading the performance of other services, or has been approved by this Commission, any state commission, or an industry standards body is presumed acceptable for deployment. A LEC may not deny a carrier's request to deploy technology that is presumed acceptable for deployment, unless the LEC demonstrates to the state commission that deployment of the particular technology within the LEC network will significantly degrade the performance of other services.
- We also seek comment in the Further NPRM on measures that would facilitate timely development of long-term industry standards and practices on spectrum compatibility and management to facilitate deployment of new and innovative loop technologies.

Line Sharing

- In the Further NPRM, we tentatively conclude line sharing is technically feasible, and we seek comment on the operational, pricing, and policy ramifications to determine whether or not to mandate line sharing nationally.

III. Background

A. Advanced Services Technologies

9. In circumstances in which the xDSL-equipped line carries both POTS (''plain old telephone service'') and data

channels, the carrier must separate those two streams when they reach the telephone company's central office. This is generally done by a device known as a digital subscriber line access multiplexer, or DSLAM. The DSLAM and central office xDSL modem send the customer's POTS traffic to the public, circuit-switched telephone network. The DSLAM sends the customer's data traffic (combined with that of other xDSL users) to a packet-switched data network. Thus, the data traffic, after traversing the local loop, avoids the circuit-switched telephone network altogether.

10. Once on the packet-switched network, the data traffic is routed to the location selected by the customer, for example, a corporate local area network or an Internet service provider. That location may itself be a gateway to a new packet-switched network or set of networks, like the Internet.

B. Statutory Framework

11. In the 1996 Act, Congress established a ''pro-competitive, deregulatory national policy framework'' for telecommunications, opening all telecommunications markets to competition so as to make advanced telecommunications and information technologies and services available to all Americans. At the core of the Act's market-opening provisions is section 251. In section 251, Congress sought to open local telecommunications markets to competition by, among other things, reducing economic and operational advantages possessed by incumbents.

12. Section 251 requires incumbent LECs to share their networks in a manner that enables competitors to choose among three methods of entry—the construction of new networks, the use of unbundled elements of the incumbent's network, and resale of the incumbent's retail services. Section 251(a) requires all ''telecommunications carriers'' to ''interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers.'' Section 251(c)(3) requires incumbent LECs to provide nondiscriminatory access to unbundled network elements. In addition, section 251(c)(6) imposes an obligation on incumbent LECs ''to provide, on rates, terms and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements. * * *'' Finally, for competitors that seek to compete by reselling the incumbent LEC's services, section 251(c)(4) requires incumbent LECs to offer for resale at wholesale rates ''any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers.''

C. Procedural History

13. On August 7, 1998, we released the *Advanced Services Order and NPRM*, in response to six petitions suggesting action we should take to speed the deployment by wireline carriers of advanced services. In that order, we concluded, *inter alia*, that the pro-competitive provisions of the 1996 Act are technology-neutral and thus apply equally to advanced services and to circuit-switched voice services. We therefore concluded that incumbent LECs are subject to section 251(c) in their provision of advanced services. Specifically, we found that incumbent LECs are subject to the interconnection obligations of sections 251(a) and 251(c)(2) with respect to both their circuit-switched and packet-switched networks. We also clarified that the facilities and equipment used by the incumbent LECs to provide advanced services are network elements and generally subject to the obligations in section 251(c)(3). In response to the petitions of Ameritech, Bell Atlantic, SBC and US WEST requesting us to forbear from applying the requirements of section 251(c), or section 271, or both with respect to their provision of advanced services, we concluded that we lacked the statutory authority to do so and therefore denied those petitions.

14. In the *Advanced Services Order and NPRM*, we proposed, in relevant part, to strengthen collocation requirements to foster timely, cost-effective, competitive deployment of advanced services. We also proposed to establish spectrum compatibility and management guidelines so that multiple carriers could deploy advanced technologies on common facilities.

15. On January 25, 1999, the Supreme Court released an opinion in *AT&T Corp.* v. *Iowa Utilities Board* in which it addressed the Commission's rule setting forth those network elements that incumbent LECs must make available to competitors. The Court held that the Commission did not adequately consider the standards of section 251(d)(2) in determining which network elements must be unbundled pursuant to section 251(c)(3). The Court stated that the Commission's rule setting forth the network elements that incumbent LECs must make available to requesting carriers should be vacated, and it remanded the matter for further proceedings. We are currently reviewing the section 251(d)(2) standard consistent with the Supreme Court opinion in *Iowa Utilities Board*, and will seek further comment on the issue of whether network elements used in the provision of advanced services should be unbundled.

IV. First Report and Order

A. Measures to Encourage Competitive LEC Deployment of Advanced Services

1. Overview

16. In this section we adopt additional measures that we expect will further facilitate competitive deployment of advanced services. In order to enable competitive LECs to compete effectively with incumbents in the advanced services marketplace, we establish additional standards and rules that will strengthen our collocation requirements, thereby reducing costs and delays associated with competitors collocating in an incumbent LEC's central office. We also adopt certain spectrum compatibility and management rules to allow competitive providers to deploy innovative advanced services technology in a timely manner. We acknowledge that the rules we adopt in this Order focus on the provision of advanced services, but we emphasize that the actions we take today pursuant to the Act apply to all telecommunications services, whether traditional voice services or advanced services.

2. Collocation Requirements

a. Background

17. In 1992, in the *Expanded Interconnection* proceeding, the Commission adopted rules pursuant to section 201 of the Act that required certain incumbent LECs to offer physical and virtual collocation for parties seeking to locate interstate special access and switched transport transmission facilities at LEC premises.

18. Section 251(c)(6) of the 1996 Act requires incumbent LECs to ''provide, on rates terms and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier, except that the carrier may provide for virtual collocation if the local exchange carrier demonstrates to the State commission that physical collocation is not practical for technical reasons or because of space limitations.'' In the *Local Competition First Report and Order*, 61 FR 45476, August 29, 1996, the Commission adopted specific rules to implement the collocation requirements of section 251(c)(6). In the *Advanced Services Order and NPRM*, we tentatively concluded that we

should adopt additional collocation rules to ensure that competing providers have access to the physical collocation space they need in order to offer advanced services.

b. Adoption of National Standards

(1) Background: 19. In the *Local Competition First Report and Order*, the Commission adopted minimum requirements for nondiscriminatory collocation arrangements. The Commission adopted rules for, among other things, space allocation and exhaustion, types of equipment that could be collocated, and LEC premises where parties could collocate equipment. The Commission also concluded that state commissions should have the flexibility to adopt additional collocation requirements that are otherwise consistent with the Act and the Commission's regulations. In the *Advanced Services Order and NPRM*, we sought comment on the extent to which we should establish additional national rules for collocation pursuant to sections 201 and 251 in order to remove barriers to entry and speed the deployment of advanced services.

(2) Discussion: 20. We adopt our tentative conclusion to establish additional national rules for collocation. We emphasize that the collocation measures we adopt in this order apply to all telecommunications services, including advanced services and traditional voice services. The standards and rules we implement in this proceeding will serve as minimum requirements. We note that state commissions commenting in this proceeding generally support our proposal to adopt additional national rules. We conclude that states will continue to have the flexibility to respond to specific issues by imposing additional requirements.

21. There are numerous problems that remain with provisioning of collocation space, and we believe that there are concrete steps we can take, in conjunction with the ongoing work of state commissions, to further the pro-competitive goals of the 1996 Act.

c. Collocation Equipment

(1) Background: 22. Section 251(c)(6) requires incumbent LECs to allow collocation of ''equipment necessary for interconnection or access to unbundled network elements . . . .'' In the *Local Competition First Report and Order*, the Commission concluded that section 251(c)(6) requires collocation of equipment used for: (1) interconnection for ''the transmission and routing of telephone exchange service and exchange access'' pursuant to section 251(c)(2); and (2) access to unbundled network elements for ''the provision of a telecommunications service'' pursuant to section 251(c)(3). The Commission interpreted section 251(c)(6) as requiring incumbent LECs to permit competitors to collocate equipment that is ''used and useful'' for either interconnection or access to unbundled network elements.

23. The Commission concluded in the *Local Competition First Report and Order* that new entrants may collocate transmission equipment, including optical terminating equipment and multiplexers, on incumbent LEC premises. The Commission further concluded, at the time, that incumbent LECs need not permit the collocation of other types of equipment, including switching equipment and equipment used to provide enhanced services. With respect to switching equipment, however, the Commission recognized that ''modern technology has tended to blur the line between switching equipment and multiplexing equipment.'' This trend in manufacturing has benefited service providers and their customers by reducing costs, promoting efficient network design, and expanding the range of possible service offerings. As a consequence of this integration, certain equipment that competing carriers need to collocate to provide advanced services efficiently may also perform switching functions. Because incumbent LECs are currently not required by our rules to permit collocation of switching equipment, competing providers argue that incumbent LECs have delayed competitive entry by contesting, on a case-by-case basis, the functionality of a particular piece of equipment (which may perform switching functions in addition to its other functions) and whether it may be collocated.

(2) Discussion: 24. *Equipment with switching and enhanced services functionality*. In the *Advanced Services Order and NPRM*, we tentatively concluded that incumbent LECs should not be permitted to impede competing carriers from offering advanced services by imposing unnecessary restrictions on the type of equipment that competing carriers may collocate. We sought comment on whether we should require incumbent LECs to allow new entrants to collocate any equipment that is used for interconnection and access to unbundled network elements, even if such equipment also includes a switching functionality. Specifically, we asked if collocation of equipment that performs both switching and other functions would encourage competitive LECs to use integrated equipment that otherwise might not be allowed in incumbent LEC premises.

25. Our existing rules, correctly read, require incumbent LECs to permit collocation of all equipment that is necessary for interconnection or access to unbundled network elements, regardless of whether such equipment includes a switching functionality, provides enhanced services capabilities, or offers other functionalities. Our rules obligate incumbent LECs to ''permit the collocation of any type of equipment used for interconnection or access to unbundled network elements.'' Stated differently, an incumbent LEC may not refuse to permit collocation of any equipment that is ''used or useful'' for either interconnection or access to unbundled network elements, regardless of other functionalities inherent in such equipment. Rather, our rules require incumbent LECs to permit collocation of any equipment required by the statute unless they first ''prove to the state commission that the equipment will not be actually used by the telecommunications carrier for the purpose of obtaining interconnection or access to unbundled network elements.'' This rule requires incumbent LECs to permit competitors to collocate such equipment as DSLAMs, routers, ATM multiplexers, and remote switching modules. Nor may incumbent LECs place any limitations on the ability of competitors to use all the features, functions, and capabilities of collocated equipment, including, but not limited to, switching and routing features and functions.

26. We consider this clarification of our existing rules to be particularly important given the rapid pace of technological change in the telecommunications equipment marketplace. By clarifying that incumbent LECs must permit advanced services equipment to be collocated on their premises, we take an important step towards elimination of obstacles to competition. In order to compete effectively in the advanced services marketplace, competitive telecommunications providers must be permitted to collocate integrated equipment that lowers costs and increases the services they can offer their customers.

27. We continue to decline, however, to require incumbent LECs to permit the collocation of equipment that is not necessary for either access to UNEs or for interconnection, such as equipment used exclusively for switching or for enhanced services. Although we may explore requiring such collocation in the future, we do not find sufficient

support in the record at this time for such a requirement. We reiterate that incumbent LECs are obligated, pursuant to section 251(c)(6), to permit competitors to collocate multi-functional equipment, even equipment that includes switching or enhanced services functionalities, if such equipment is necessary for access to UNEs or for interconnection with the incumbent LEC's network.

28. *Cross-Connects.* In the *Advanced Services Order and NPRM,* we sought comment on any additional steps we might take so that competitive LECs are able to establish cross-connects to the equipment of other collocated competitive LECs.

29. We now revise our rules to require incumbent LECs to permit collocating carriers to construct their own cross-connect facilities between collocated equipment located on the incumbent's premises.

30. *Equipment Safety Requirements.* In the *Advanced Services Order and NPRM,* we tentatively concluded that incumbent LECs may require that all equipment that a new entrant places on its premises meet safety requirements to avoid endangering other equipment and the incumbent LECs' networks. Certain performance and reliability requirements, however, may not be necessary to protect LEC equipment. Such requirements may increase costs unnecessarily, which would lessen the ability of new entrants to serve certain markets and thereby harm competition. We tentatively concluded that, to the extent that incumbent LECs use equipment that does not satisfy the Bellcore Network Equipment and Building Specifications (NEBS) requirements, competitive LECs should be able to collocate the same or equivalent equipment. We further tentatively concluded that incumbent LECs should be required to list all approved equipment and all equipment they use.

31. We conclude that, subject to the limitations described herein, an incumbent LEC may impose safety standards that must be met by the equipment to be collocated in its central office.

32. Second, we conclude that, although an incumbent LEC may require competitive LEC equipment to satisfy NEBS safety standards, the incumbent may not impose safety requirements that are more stringent than the safety requirements it imposes on its own equipment that it locates in its premises.

d. Alternative Collocation Arrangements

(1) Background

33. In the *Advanced Services Order and NPRM,* we made several tentative conclusions and sought comment on issues raised by ALTS in its petition contending that the practices and policies that incumbent LECs employed in offering physical collocation impeded competition by imposing substantial costs and delays on competing carriers for space and construction of collocation cages. Based on the record submitted in this proceeding, we now adopt several of our tentative conclusions related to the provisioning of collocation space in incumbent LEC premises.

34. In the *Advanced Services Order and NPRM,* we tentatively concluded that we should require incumbent LECs to offer collocation arrangements to new entrants that minimize the space needed by each competing provider in order to promote the deployment of advanced services to all Americans. Such alternative collocation arrangements include: (1) the use of shared collocation cages, within which multiple competing providers' equipment could be either openly accessible or locked within a secure cabinet; (2) the option to request collocation cages of any size without any minimum requirement, so that competing providers will not use any more space than is reasonably necessary for their needs; and (3) physical collocation that does not require the use of collocation cages (''cageless'' collocation).

(2) Discussion

35. We now adopt our tentative conclusion that incumbent LECs must provide specific collocation arrangements, consistent with the rules we outline below, at reasonable rates, terms, and conditions as are set by state commissions in conformity with the Act and our rules.

36. We now adopt new rules requiring incumbent LECs to make certain collocation arrangements available to requesting carriers. In adopting new rules, we reject the arguments of incumbent LEC commenters that additional national collocation rules are not necessary.

37. First, we require incumbent LECs to make shared collocation cages available to new entrants. A shared collocation cage is a caged collocation space shared by two or more competitive LECs pursuant to terms and conditions agreed to by the competitive LECs. In making shared cage arrangements available, incumbent LECs may not increase the cost of site preparation or nonrecurring charges above the cost for provisioning such a cage of similar dimensions and material to a single collocating party. In addition, the incumbent must prorate the charge for site conditioning and preparation undertaken by the incumbent to construct the shared collocation cage or condition the space for collocation use, regardless of how many carriers actually collocate in that cage, by determining the total charge for site preparation and allocating that charge to a collocating carrier based on the percentage of the total space utilized by that carrier. In other words, a carrier should be charged only for those costs directly attributable to that carrier. The incumbent may not place unreasonable restrictions on a new entrant's use of a collocation cage, such as limiting the new entrant's ability to contract with other competitive carriers to share the new entrant's collocation cage in a sublease-type arrangement. In addition, if two or more competitive LECs who have interconnection agreements with an incumbent LEC utilize a shared collocation arrangement, the incumbent LEC must permit each competitive LEC to order UNEs to and provision service from that shared collocation space, regardless of which competitive LEC was the original collocator.

38. Second, we require incumbent LECs to make cageless collocation arrangements available to requesting carriers. While we do not prevent incumbent LECs from offering caged collocation arrangements, we require incumbent LECs to make cageless collocation available so as to offer competitors a choice of arrangements. Subject only to technical feasibility and the permissible security parameters outlined below, incumbent LECs must allow competitors to collocate in any unused space in the incumbent LEC's premises, without requiring the construction of a room, cage, or similar structure, and without requiring the creation of a separate entrance to the competitor's collocation space. Incumbent LECs may require competitors to use a central entrance to the incumbent's building, but may not require construction of a new entrance for competitors' use, and once inside the building incumbent LECs must permit competitors to have direct access to their equipment. Incumbent LECs may not require competitors to use an intermediate interconnection arrangement in lieu of direct connection to the incumbent's network if technically feasible, because such intermediate points of interconnection

simply increase collocation costs without a concomitant benefit to incumbents. In addition, an incumbent LEC must give competitors the option of collocating equipment in any unused space within the incumbent's premises, to the extent technically feasible, and may not require competitors to collocate in a room or isolated space separate from the incumbent's own equipment. The incumbent LEC may take reasonable steps to protect its own equipment, such as enclosing the equipment in its own cage, and other reasonable security measures as discussed below. The incumbent LEC may not, however, require competitors to use separate rooms or floors, which only serves to increase the cost of collocation and decrease the amount of available collocation space. The incumbent LEC may not utilize unreasonable segregation requirements to impose unnecessary additional costs on competitors.

39. Incumbent LECs must also ensure that cageless collocation arrangements do not place unreasonable minimum space requirements on collocating carriers. Thus, a competitive LEC must be able to purchase collocation space sufficient, for example, to house only one rack of equipment, and should not be forced to purchase collocation space that is much larger than the carrier requires. We require incumbent LECs to make collocation space available in single-bay increments, meaning that a competing carrier can purchase space in increments small enough to collocate a single rack, or bay, of equipment. We conclude that this requirement serves the public interest because it would reduce the cost of collocation for competitive LECs and it will reduce the likelihood of premature space exhaustion. We rely on state commissions to ensure that the prices of these smaller collocation spaces are appropriate given the amount of space in the incumbent LEC's premises actually occupied by the new entrants.

40. Finally, we require incumbent LECs, when space is legitimately exhausted in a particular LEC premises, to permit collocation in adjacent controlled environmental vaults or similar structures to the extent technically feasible. Such a requirement is, we believe, the best means suggested by commenters, both incumbents and new entrants, of addressing the issue of space exhaustion by ensuring that competitive carriers can compete with the incumbent, even when there is no space inside the LEC's premises. Because zoning and other state and local regulations may affect the viability of adjacent collocation, and because the incumbent LEC may have a legitimate reason to exercise some measure of control over design or construction parameters, we rely on state commissions to address such issues. In general, however, the incumbent LEC must permit the new entrant to construct or otherwise procure such an adjacent structure, subject only to reasonable safety and maintenance requirements. The incumbent must provide power and physical collocation services and facilities, subject to the same nondiscrimination requirements as traditional collocation arrangements.

41. In the *Advanced Services Order and NPRM,* we also asked whether, if an incumbent LEC offers a particular collocation arrangement, such an arrangement should be presumed to be technically feasible at other LEC premises. We recognize that different incumbent LECs make different collocation arrangements available on a region by region, state by state, and even central office by central office basis. We now conclude that the deployment by any incumbent LEC of a collocation arrangement gives rise to a rebuttable presumption in favor of a competitive LEC seeking collocation in any incumbent LEC premises that such an arrangement is technically feasible. Such a presumption of technical feasibility, we find, will encourage all LECs to explore a wide variety of collocation arrangements and to make such arrangements available in a reasonable and timely fashion. We believe this ''best practices'' approach will promote competition.

e. Security

42. In the *Advanced Services Order and NPRM,* we sought comment on the security and access issues that may arise from a requirement that incumbent LECs provide alternative collocation arrangements, including cageless collocation. We noted that, in the *Local Competition First Report and Order,* the Commission concluded that incumbent LECs should be permitted reasonable security arrangements to protect their equipment and ensure network security and reliability. We recognized that adequate security for both incumbent LECs and competitive LECs is important to encourage deployment of advanced services.

43. We conclude, based on the record, that incumbent LECs may impose security arrangements that are as stringent as the security arrangements that incumbent LECs maintain at their own premises either for their own employees or for authorized contractors. To the extent existing security arrangements are more stringent for one group than for the other, the incumbent may impose the more stringent requirements. Except as provided below, we conclude that incumbent LECs may not impose more stringent security requirements than these. Stated differently, the incumbent LEC may not impose discriminatory security requirements that result in increased collocation costs without the concomitant benefit of providing necessary protection of the incumbent LEC's equipment.

44. We agree with commenting incumbent LECs that protection of their equipment is crucial to the incumbents' own ability to offer service to their customers. Therefore, incumbent LECs may establish certain reasonable security measures that will assist in protecting their networks and equipment from harm. The incumbent LEC may not, however, unreasonably restrict the access of a new entrant to the new entrant's equipment. We permit incumbent LECs to install, for example, security cameras or other monitoring systems, or to require competitive LEC personnel to use badges with computerized tracking systems. Incumbent LECs may not use any information they collect in the course of implementing or operating security arrangements for any marketing or other purpose in aid of competing with other carriers. We expect that state commissions will permit incumbent LECs to recover the costs of implementing these security measures from collocating carriers in a reasonable manner. We further permit incumbent LECs to require competitors' employees to undergo the same level of security training, or its equivalent, that the incumbent's own employees, or third party contractors providing similar functions, must undergo. The incumbent LEC may not, however, require competitive LEC employees to receive such training from the incumbent LEC itself, but must provide information to the competitive LEC on the specific type of training required so the competitive LEC's employees can complete such training by, for example, conducting their own security training.

45. Incumbent LECs must allow collocating parties to access their equipment 24 hours a day, seven days a week, without requiring either a security escort of any kind or delaying a competitor's employees' entry into the incumbent LEC's premises by requiring, for example, an incumbent LEC employee to be present. We also require incumbent LECs to provide competitors reasonable access to basic facilities, such as restroom facilities and parking, while at the incumbent LEC's premises.

f. Space Preparation Cost Allocation

46. In the *Advanced Services Order and NPRM,* we sought comment on ALTS' proposal that we establish rules for the allocation of up-front space preparation charges. One approach we noted, which had been adopted by Bell Atlantic in its pre-filing statement in the New York Commission's section 271 docket, was that the competing provider would be responsible only for its share of the cost of conditioning the collocation space, whether or not other competing providers were immediately occupying the rest of the space. In addition, Bell Atlantic committed to allowing smaller competing providers to pay on an installment basis. We sought comment on whether we should adopt Bell Atlantic's approach, or any other approach, as a national standard in order to speed the deployment of advanced telecommunications capability to all Americans.

47. We conclude, based on the record, that incumbent LECs must allocate space preparation, security measures, and other collocation charges on a pro-rated basis so the first collocator in a particular incumbent premises will not be responsible for the entire cost of site preparation. In order to ensure that the first entrant into an incumbent's premises does not bear the entire cost of site preparation, the incumbent must develop a system of partitioning the cost by comparing, for example, the amount of conditioned space actually occupied by the new entrant with the overall space conditioning expenses. We expect state commissions will determine the proper pricing methodology to ensure that incumbent LECs properly allocate site preparation costs among new entrants. We also conclude that these standards will serve as minimum requirements, and that states should continue to have flexibility to adopt additional collocation requirements, consistent with the Act.

g. Provisioning Intervals

48. In the *Advanced Services Order and NPRM,* we sought comment on how to address the entry barrier posed by delays between the ordering and provisioning of collocation space. Specifically, we sought comment on ALTS' proposal that we should establish presumptive reasonable deployment intervals for new collocation arrangements and expansion of existing arrangements. Currently, some incumbent LECs require a new entrant to obtain state competitive LEC certification before it can begin to negotiate an interconnection agreement. In addition, competitive LECs asserted that some incumbent LECs will not allow a requesting carrier to order collocation space until an interconnection agreement becomes final.

49. We conclude that an incumbent LEC may not impose unreasonable restrictions on the time period within which it will consider applications for collocation space. Specifically, we conclude that an incumbent LEC may not refuse to consider an application for collocation space submitted by a competitor while that competitor's state certification is pending, or before the competitor and incumbent LEC have entered into a final interconnection agreement. There is no legitimate reason for an incumbent LEC to refuse to begin processing a collocation application, especially given that competitors pay an application fee to the incumbent to cover the costs associated with consideration of the application.

50. We do not adopt specific provisioning intervals at this time. We have adopted several new collocation rules in this Order, and we do not yet have sufficient experience with the implementation of these new collocation arrangements to suggest time frames for provisioning. While we do not at this time adopt specific intervals, we retain authority to adopt specific time frames in the future as we deem necessary. We emphasize the importance of timely provisioning, and we are confident that state commissions recognize the competitive harm that new entrants suffer when collocation arrangements are unnecessarily delayed. The record in this proceeding reflects the significant competitive harm suffered by new entrants whose collocation space is not ready for as long as six to eight months after their initial collocation request is submitted to the incumbent LEC. Several state commissions have taken significant steps to lessen the time periods within which incumbent LECs provision collocation space. The Texas PUC has required Southwestern Bell Telephone Company (SWBT) to provide competitive LECs with information on space availability in a SWBT premises within ten days of receipt of a collocation request. Because of the importance of ensuring timely provisioning of collocation space, we encourage state commissions to ensure that incumbent LECs are given specific time intervals within which they must respond to collocation requests.

51. The practices of several carriers suggest that provisioning intervals can be short. Both GTE and Ameritech state that they respond to physical collocation requests within ten days by advising the requesting carrier whether space is available or not. We view ten days as a reasonable time period within which to inform a new entrant whether its collocation application is accepted or denied. Even with a timely response to their applications, however, new entrants cannot compete effectively unless they have timely access to provisioned collocation space. We urge the states to ensure that collocation space is available in a timely and pro-competitive manner that gives new entrants a full and fair opportunity to compete.

h. Space Exhaustion

52. In the *Advanced Services Order and NPRM,* we noted that one of the major barriers facing new entrants that seek to provide advanced services on a facilities basis is the lack of collocation space in many incumbent LEC premises. Pursuant to the Act, incumbent LECs must provide physical collocation unless they demonstrate to the state commission's satisfaction that ''physical collocation is not practical for technical reasons or because of space limitations.'' Because incumbent LECs have the incentive and capability to impede competition by reducing the amount of space available for collocation by competitors, the Commission, in the *Local Competition First Report and Order,* required incumbent LECs that deny requests for physical collocation on the basis of space limitations to provide the state commission with detailed floor plans or diagrams of their premises. The Commission concluded that such submissions would aid the state commission in evaluating whether the denial of physical collocation was justified.

53. We now adopt our tentative conclusion that an incumbent LEC that denies a request for physical collocation due to space limitations should, in addition to providing the state commission with detailed floor plans, allow any competing provider that is denied physical collocation at the incumbent LEC's premises to tour the premises. Specifically, we require the incumbent LEC to permit representatives of a requesting telecommunications carrier that has been denied collocation due to space constraints to tour the entire premises in question, not just the room in which space was denied, without charge, within ten days of the denial of space. As we noted in the *Advanced Services NPRM,* allowing competing providers to walk through a LEC's premises will enable those providers to identify space that they believe could be used for physical collocation. If, after the tour of

the premises, the incumbent LEC and competing provider disagree about whether space limitations at that premise make collocation impractical, both carriers could present their arguments to the state commission. Incumbent LECs are permitted to assign their own personnel to such tours, thus offering sufficient protection against harm to the network and proprietary information.

54. We also adopt our tentative conclusion that an incumbent LEC must submit to a requesting carrier within ten days of the submission of the request a report indicating the incumbent LEC's available collocation space in a particular LEC premises. This report must specify the amount of collocation space available at each requested premises, the number of collocators, and any modifications in the use of the space since the last report. The report must also include measures that the incumbent LEC is taking to make additional space available for collocation. In addition to this reporting requirement incumbent LECs must maintain a publicly available document, posted for viewing on the Internet, indicating all premises that are full, and must update such a document within ten days of the date at which a premises runs out of physical collocation space. Such requirements will allow competitors to avoid expending significant resources in applying for collocation space in an incumbent LEC's premises where no such space exists. We expect that state commissions will permit incumbent LECs to recover the costs of implementing these reporting measures from collocating carriers in a reasonable manner.

55. For network planning purposes, new entrants need to know what incumbent LEC offices are available for collocation. Each new entrant cannot be required to apply for collocation space in every central office in order to find out if there is space available in that office, when such information is readily available to the incumbent LEC that occupies that office.

56. Finally, we conclude that in order to increase the amount of space available for collocation, incumbent LECs must remove obsolete unused equipment from their premises upon reasonable request by a competitor or upon the order of a state commission. We rely on state commissions to settle disputes between carriers as to which incumbent equipment is truly obsolete and unused and can be removed from the LEC's premises. We also note that carriers may utilize the complaint provisions of section 208 of the Act in the case of collocation disputes that fall within the Commission's jurisdiction.

B. Spectrum Compatibility

57. *Background.* Spectrum compatibility refers generally to the ability of various loop technologies to reside and operate in close proximity while not significantly degrading each other's performance. Our discussion of spectrum compatibility includes spectral compatibility standards issues, such as setting the signal power densities so as to minimize interference, and spectrum management issues, such as establishing binder group administration and deployment practices. The development of spectral compatibility standards should help to minimize crosstalk, the noise caused by extraneous signals combining with the intended signal. This noise can result in the degradation of the intended signal. Compatibility becomes a significant concern with the introduction of new high-speed services in a multiple provider environment. For example, if an incumbent LEC and a competitive LEC offer DSL services that use different line encoding technologies, and if their respective customers' loops are located adjacent to each other within a binder group, the two technologies may unintentionally interfere with one another and interrupt the signals travelling over each loop. One method of ensuring spectral compatibility is through the use of power spectral density (PSD) masks. PSD masks are represented as graphical templates that define the limits on signal power densities across a range of frequencies so as to minimize interference. The goal of PSD mask standards is to permit divergent technologies to coexist in close proximity within the same binder groups. Standards bodies, such as T1E1.4, define these masks as technology develops. The development of spectrum management rules and practices should help enable multiple technologies to coexist within binder groups.

58. In the *Advanced Services Order and NPRM,* we sought comment on how to address the host of loop spectrum compatibility issues. In particular, we asked commenters to consider how we should address interference concerns that may result from provision of advanced services using different signal formats on copper pairs in the same bundle. We asked parties to suggest ways to determine when a particular service, technology, or piece of equipment causes network interference such that the use of the particular service, technology, or piece of equipment should be prohibited. We also asked commenters to suggest ways to distinguish between legitimate claims that particular services, technologies, or equipment create spectrum interference and claims raised simply to impede competition. We sought comment on whether we should adopt any industry standards as the basis for national spectrum compatibility requirements. We also sought comment on how any requirements should evolve over time so as to encourage and not stifle innovation. In addition, we sought comment on other approaches to spectrum management that would foster pro-competitive use of the loop plant by incumbent LECs and new entrants, while providing necessary network protection.

59. *Discussion.* We acknowledge that clear spectral compatibility standards and spectrum management rules and practices are necessary both to foster competitive deployment of innovative technologies and to ensure the quality and reliability of the public telephone network. We find, however, that incumbent LECs should not unilaterally determine what technologies LECs, both competitive LECs and incumbent LECs, may deploy. Nor should incumbent LECs have unfettered control over spectrum management standards and practices.

60. We find that we do not have a sufficient record with which we can adequately address all of the long-term spectrum compatibility issues. Thus, we adopt below a Further NPRM through which we hope to resolve, in a timely manner, the long-term spectrum compatibility issues. In the Further NPRM, we seek comment on additional measures we can take to encourage deployment of innovative technology while simultaneously ensuring the integrity of the network. In this Order, we adopt certain rules on spectrum compatibility and management which we believe will enable reasonable and safe deployment of advanced services prior to development of industry standards and resolution of all the issues raised in the Further NPRM.

a. Existing Power Spectral Density Masks

61. Commenters generally agree that the process of establishing power spectral density masks best occurs within the industry standards setting bodies. Such standards bodies possess the combined knowledge and expertise of a broad sector of the industry.

62. We conclude, however, that we should establish certain rules on spectrum compatibility that will immediately facilitate the deployment of advanced services, until long-term

standards and practices can be established. Although we believe that the development of power spectral density masks is best left to standards bodies such as the T1E1.4, we also believe the Commission can take certain immediate steps to encourage the deployment of advanced services. Rather than setting forth in this Order specific standards for the new technologies, we establish certain rules to foster deployment of advanced services while maintaining network integrity, until the standards bodies adopt comprehensive standards for the new technologies. We find that any equipment deployed consistent with the rules adopted here can be connected to the public switched telephone network with reasonable confidence that this technology will not significantly degrade the performance of other advanced services, and with reasonable confidence that this technology will not impair traditional voice band services.

63. We conclude that any loop technology that complies with existing industry standards is presumed acceptable for deployment. Specifically, we conclude that technology that complies with any of the following standards is presumed acceptable for deployment: T1.601, T1.413, and TR28. Furthermore, any technology which has been successfully deployed by any carrier without significantly degrading the performance of other services or has been approved by this Commission, any state commission, or an industry standards body is presumed acceptable for deployment.

64. We conclude that a LEC may not deny a carrier's request to deploy technology that is presumed acceptable for deployment, unless the LEC demonstrates to the state commission that deployment of the particular technology within the LEC network will significantly degrade the performance of other advanced services or traditional voice band services. We conclude further that industry standards are not upper limits on what technology is deployable; incumbent LECs and competitive LECs are free to mutually agree to deploy new technologies that may exceed these standards. We encourage cooperation between incumbents and competitors to establish agreements on the deployment of non-standard xDSL-based and other advanced services technology. We expect that as standards are ratified for new technologies, carriers will recognize these as deployable technologies and will not deny competitors the ability to deploy these technologies. In the event that a LEC subsequently demonstrates to this Commission or the relevant state commission that a deployed technology is significantly degrading the performance of other advanced services or traditional voice band services, the carrier deploying the technology shall discontinue deployment of that technology and migrate its customers to technologies that will not significantly degrade the performance of other such services.

65. We further conclude that incumbent LECs cannot deny requesting carriers the right to deploy a new technology that does not conform to the standards cited in the preceding paragraph and has not yet been approved by a standards body (or otherwise authorized by this Commission or any state commission), if the requesting carrier can demonstrate to the state commission that this particular technology will not significantly degrade the performance of other advanced services or traditional voice band services. In this situation, there would be no presumption in favor of deployment and the burden would be on the requesting carrier to make the appropriate showing.

b. Spectrum Management

66. In order to encourage deployment of innovative technology and allow competitors the same opportunity as incumbent LECs to deploy advanced services, while simultaneously ensuring the integrity of the network, we establish certain spectrum management rules.

67. We define spectrum management to include binder/cable administration as well as the broader issue of deployment practices (e.g., the rules for testing and implementing xDSL-based and other advanced services). We believe that the industry must develop a simpler and more open approach to spectrum management. Currently, each incumbent LEC defines its own spectrum management specifications. These measures vary from provider to provider and from state to state, thereby requiring competitive LECs to conform to different specifications in each area. We find that uniform spectrum management procedures are essential to the success of advanced services deployment. As such, we adopt the following spectrum management rules.

68. We conclude that the incumbent LEC must provide competitive LECs with nondiscriminatory access to the incumbent LEC's spectrum management procedures and policies. The procedures and policies that the incumbent LEC uses in determining which services can be deployed must be equally available to competitive LECs intending to provide service in an area. We believe that competitive LECs need nondiscriminatory access to such information so that the competitive LEC can independently and expeditiously determine what services and technologies it can deploy within the incumbent LEC's territory.

69. We conclude that incumbent LECs must disclose to requesting carriers information with respect to the rejection of the requesting carrier's provision of advanced services, together with the specific reason for the rejection. The incumbent LEC must also disclose to requesting carriers information with respect to the number of loops using advanced services technology within the binder and type of technology deployed on those loops. We believe that such disclosure will allow for a more open and accessible environment, foster competition, and encourage deployment of advanced services.

70. We strongly believe that industry should discontinue deployment of well recognized disturbers, such as AMI T1. We further believe carriers should, to the fullest extent possible, replace AMI T1 with new and less interfering technologies. In the accompanying Further NPRM, we seek comment on methods by which to reduce or eliminate the deployment of AMI T1.

71. We conclude that if a carrier claims a service is significantly degrading the performance of other advanced services or traditional voice band services, then that carrier must notify the causing carrier and allow that carrier a reasonable opportunity to correct the problem. Any claims of network harm must be supported with specific and verifiable supporting information.

72. We recognize that there may be a limit to the number of lines delivering advanced services that can share a binder group without interfering with other customers' services. We conclude that the incumbent LEC shall bear the burden of demonstrating to the relevant state commission when a requested advanced service will significantly degrade the performance of existing services, such that the incumbent can deny the competitor's request. We do not believe this will be a problem until advanced services penetrate a significant portion of the market and expect incumbents to manage binder groups in such a manner so as to maximize the number and types of advanced services that can be deployed.

73. We recognize further that the standards development process may delay the deployment of new technologies. To address this difficulty, we encourage the industry to apply a

''test and see'' strategy, which would allow competitive LECs and incumbent LECs to cooperate in testing and deployment of new services. We find that this strategy will encourage innovation and allow for the more rapid deployment of new technologies. Our hope is that all providers recognize that cooperation is essential in this future shared environment.

5. Further Information

74. For further information regarding this proceeding, contact Michael Pryor, Deputy Division Chief, Policy and Program Planning Division, Common Carrier Bureau, at 202–418–1580 or mpryor@fcc.gov. Further information may also be obtained by calling the Common Carrier Bureau's TTY number: 202–418–0484.

VI. Ordering Clauses

75. Accordingly, it is ordered that, pursuant to sections 1–4, 10, 201, 202, 251–254, 256, 271, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 160, 201, 202, 251–254, 256, 271, and 303(r), the First Report and Order is hereby adopted. The requirements adopted in this Order shall be effective 30 days after publication in the **Federal Register**, except for 47 CFR 51.321 (f) and (h) and 51.323 (b) and (i)(3) which contain information collection requirements that are not effective until approved by the Office of Management and Budget.

76. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this First Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Advanced Services Order and NPRM*. The Commission sought written public comment on the proposals in the *Advanced Services Order and NPRM*, including comment on the IRFA. [The comments received are discussed below.] This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

I. Need for and Objectives of This First Report and Order and the Rules Adopted Herein

2. In order to encourage competition among carriers to develop and deploy new advanced services, it is critical that the marketplace for these services be conducive to investment, innovation, and meeting the needs of consumers. In this *First Report and Order,* we seek to ensure that all carriers have economic incentives to innovate and invest in new technologies.

3. We also adopt additional measures to further facilitate the development of competition in the advanced services market. First, we strengthen our collocation rules to reduce the costs and delays faced by competitors that seek to collocate equipment in an incumbent LEC's central office. We also adopt certain spectrum compatibility guidelines and adopt a *Further Notice of Proposed Rulemaking (FNPRM)* to explore issues related to developing long-term standards and practices for spectrum compatibility and management and line sharing. The issues which are the subject of the *FNPRM* will be discussed in a separate Initial Regulatory Flexibility Analysis.

II. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

4. In the IRFA, we stated that any rule changes would impose minimum burdens on small entities. We indicated that the collocation section of the *NPRM* proposed reporting requirements. The IRFA solicited comment on alternatives to our proposed rules that would minimize the impact they may have on small entities. In response we received comments from the Office of Advocacy, United States Small Business Administration (SBA) specifically directed to the IRFA. Specifically, SBA contends that the Commission's IRFA was inadequate because it failed to consider the effect of its proposed rules on small incumbent LECs. While we continue to believe that incumbent LECs are dominant and therefore not ''small'' businesses within the meaning of the SBA, we include a discussion of the effect of the actions taken in this order on small incumbent LECs in order to remove any possible issue of RFA compliance. As noted in Part V of this FRFA, in making the determinations reflected in this order, we have given consideration to the SBA's comments, as well as comments of parties that generally addressed the impact of our proposed rules on small entities. We also do not agree with SBA's contention that our IRFA was not sufficiently detailed to generate ''meaningful comments on the impact of the proposed rules.'' The comments of the SBA, the National Rural Telecom Association, and the Organization for the Promotion and Advancement of Small Telecommunications Companies, among others, provided more than sufficient detail for us to prepare this FRFA.

III. Description and Estimates of the Number of Small Entities Affected by the First Report and Order

5. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the actions taken in this *First Report and Order.* The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. 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).

6. Below, we further describe and estimate the number of small entities that may be affected by the decisions in this *First Report and Order.*

7. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Telecommunications Industry Revenue* report, regarding the Telecommunications Relay Service (TRS). According to data in the most recent report, there are 3,459 interstate carriers. These carriers include, *inter alia,* local exchange carriers (LECs), wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

8. The SBA has defined establishments engaged in providing ''Telephone Communications, Except Radiotelephone'' to be small businesses when they have no more than 1,500 employees. Below, we discuss the total estimated number of telephone companies and small businesses in this category, and we then attempt to refine further those estimates.

9. Although some affected incumbent LECs may have 1,500 or fewer employees, we do not believe that such entities should be considered small entities within the meaning of the RFA because they are either dominant in their field of operations or are not

independently owned and operated, and therefore by definition not ''small entities'' or ''small business concerns'' under the RFA. Accordingly, our use of the terms ''small entities'' and ''small businesses'' does not encompass small incumbent LECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will separately consider small incumbent LECs within this analysis and use the term ''small incumbent LECs'' to refer to any incumbent LECs that arguably might be defined by the SBA as ''small business concerns.''

10. *Local Exchange Carriers.* Neither the Commission nor the SBA has developed a definition for small LECs. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Telecommunications Industry Revenue* data, 1,371 carriers reported that they were engaged in the provision of local exchange services. We do not have data specifying the number of these carriers that are either dominant in their field of operations, are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 1,371 providers of local exchange service are small entities or small incumbent LECs that may be affected by the proposed rules, if adopted.

11. *Competitive LECs.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of competitive LECs. The closest applicable definition under the SBA rules is for telephone communications companies except radiotelephone (wireless) companies. The most reliable source of information regarding the number of competitive LECs nationwide is the data that we collect annually in connection with the TRS Worksheet. According the most recent *Telecommunications Industry Revenue* data, 109 companies reported that they were engaged in the provision of either competitive local exchange service or competitive access service, which are placed together in the data. We do not have information on the number of carriers that are not independently owned and operated, nor have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of competitive LECs that would qualify as small business concerns under the SBA definition. Consequently, we estimate that there are fewer than 109 small competitive LECs or competitive access providers.

IV. Summary of Projected Reporting, Recordkeeping, and Other Compliance Requirements

A. Collocation

12. We establish additional national rules for collocation. We require incumbent LECs to permit collocating carriers to construct their own cross-connect facilities between collocated equipment located on the incumbent's premises. An incumbent LEC that denies collocation of a competitor's equipment, citing safety standards, must provide to the competitive LEC within five business days a list of all equipment that the incumbent LEC locates within the premises in question, together with an affidavit attesting that all of that equipment meets or exceeds the safety standard that the incumbent LEC contends the competitor's equipment fails to meet. Incumbent LECs must provide specific collocation arrangements, consistent with the rules we outline below, at reasonable rates, terms, and conditions as are set by state commissions in conformity with the Act and our rules.

13. Incumbent LECs must make shared collocation cages, cageless collocation, and adjacent controlled environmental huts, each with single-bay collocation arrangements, available to new entrants. Subject only to technical feasibility and certain security parameters, incumbent LECs must allow competitors to collocate in any unused space in the incumbent LEC's premises, without requiring the construction of a cage or similar structure, and without requiring the creation of a separate entrance to the competitor's collocation space. Incumbent LECs may not require competitors to use an intermediate interconnection arrangement in lieu of direct connection to the incumbent's network if technically feasible, because such intermediate points of interconnection simply increase collocation costs without a concomitant benefit to incumbents. Incumbent LECs must allow competitive LECs to have access to their collocated equipment 24 hours a day, seven days a week, without requiring a security escort or delaying a competitor's employees' entry into the incumbent LEC's premises.

14. Incumbent LECs must allocate space preparation, security measures, and other collocation charges on a pro-rated basis so the first collocator in a particular incumbent premises will not be responsible for the entire cost of site preparation. An incumbent LEC may not refuse to consider an application for collocation space submitted by a competitor while that competitor's state certification is pending, or before the competitor and incumbent LEC have entered into a final interconnection agreement. Incumbent LECs must permit representatives of a requesting telecommunications carrier that has been denied collocation due to space constraints to tour the entire premises in question. Upon request from a competitive LEC, an incumbent LEC must submit to the requesting carrier within ten days of the submission of the request a report indicating the incumbent LEC's available collocation space in a particular LEC premises. This report should specify the amount of collocation space available at each requested premises, the number of collocators, and any modifications in the use of the space since the last report. The report should also include measures that the incumbent LEC is taking to make additional space available for collocation. In addition to this reporting requirement, incumbent LECs must maintain a publicly available document, posted for viewing on the Internet, indicating all premises that are full, and must update such a document within ten days of the date at which a premises runs out of physical collocation space. Finally, incumbent LECs must remove obsolete unused equipment from their premises to increase the amount of space available for collocation.

B. Spectrum Compatibility

15. We establish certain spectrum compatibility guidelines in order to permit the safe deployment of xDSL and other advanced technologies. We determine that complying with these rules may require use of engineering, technical, operational, accounting, billing, and legal skills. However, we believe that incumbent LECs will already have these skills.

V. Steps Taken To Minimize Significant Economic Impact on Small Entities and Small Incumbent LECs, and Alternatives Considered

A. Collocation

16. Incumbent LECs that deny competitive LECs collocation of certain equipment in a central office must provide the requesting carrier, within five business days, a list of all equipment the incumbent locates within the premises in question, together with an affidavit attesting that all the incumbent's equipment meets the safety standards that the incumbent contends the competitor's equipment fails to

meet. In addition, an incumbent LEC must submit to the requesting carrier within ten days of the submission of the request a report indicating the incumbent LEC's available collocation space in a particular LEC premises. These requirements allow competitive LECs, who would otherwise have be unable to discover if incumbent LECs are imposing discriminatory standards, to determine what type of equipment incumbents will accept to be collocated, and further will allow competitive LECs to determine if incumbent LECs are discriminating in enforcing equipment requirements on competitive LECs but not on themselves. The burden in preparing these reports in minimum, because incumbent LECs already know what equipment they have in their offices, how much space they have available, and the way in which they apply their collocation standards.

17. Incumbent LECs that deny collocation for space reasons must allow competitive LECs to tour facilities. This requirement again provides proof of lack of space, and allows competitive LECs to gather evidence for presentation to state commission if there is a factual dispute regarding space availability. The burden on the incumbent LEC is minimum, because it can schedule tours when an employee is on site and available to give one.

18. An incumbent LEC must make public a document available on Internet that lists all its premises that have no more collocation space available, within 10 days of the time that the space fills up completely. This serves competitive LECs by telling them when an incumbent LEC office is full, so they need not apply for space. The burden on incumbent LECs is minimal, because an Internet site is easy and cheap to maintain, and all they are doing is making available information that they already know themselves.

19. An incumbent LEC must submit a report, within 10 days of receipt of a request for such a report, to a requesting competitive LEC indicating how much space is available in a particular incumbent LEC premises. This benefits competitive LECs by allowing them to find out if space is available without having to go through the lengthy and expensive application process. There is minimal burden on the incumbents because they already know the design of their own central offices and should be able to easily state how much space is available for collocation.

20. Incumbent LECs must remove obsolete unused equipment from their premises to create more collocation space. Such a requirement can result in the creation of more collocation space in central offices that were previously without space. The burden on incumbent LECs is minimal, because if the equipment is obsolete and unused, the removal of such equipment will not affect the network operations of the incumbent.

B. Spectrum Compatibility

21. Incumbent LECs must make public the spectrum management guidelines and policies that they use to determine what services competitive LECs can provide over unbundled loops. This requirement benefits competitive LECs by ensuring they know what services they can provide over unbundled loops. There is a minimal burden to incumbent LECs, because they already know what spectrum management guidelines they are applying to their own network, and they are now simply required to make such information public.

VI. Report to Congress

22. The Commission will send a copy of the First 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 First Report and Order, including FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the First Report and Order and FRFA (or summaries thereof) will also be published in the **Federal Register**. *See* 5 U.S.C. 604(b).

List of Subjects in 47 CFR Part 51

Communications common carriers, Telecommunications.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

Amendments to the Code of Federal Regulations

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 51 as follows:

PART 51—INTERCONNECTION

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

Sections 1–5, 7, 201–05, 207–09, 218, 225–27, 251–54, 271, 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 151–55, 157, 201–05, 207–09, 218, 225–27, 251–54, 271, 332, unless otherwise noted.

2. Section 51.5 is amended by adding the following definition to read as follows:

§ 51.5 Terms and definitions.

* * * * *

Advanced services. The term ''advanced services'' is defined as high speed, switched, broadband, wireline telecommunications capability that enables users to originate and receive high-quality voice, data, graphics or video telecommunications using any technology.

* * * * *

3. Section 51.321 is amended by revising paragraphs (c) and (f) and adding new paragraphs (h) and (i) to read as follows:

§ 51.321 Methods of obtaining interconnection and access to unbundled elements under section 251 of the Act.

* * * * *

(c) A previously successful method of obtaining interconnection or access to unbundled network elements at a particular premises or point on any incumbent LEC's network is substantial evidence that such method is technically feasible in the case of substantially similar network premises or points. A requesting telecommunications carrier seeking a particular collocation arrangement, either physical or virtual, is entitled to a presumption that such arrangement is technically feasible if any LEC has deployed such collocation arrangement in any incumbent LEC premises.

* * * * *

(f) An incumbent LEC shall submit to the state commission, subject to any protective order as the state commission may deem necessary, detailed floor plans or diagrams of any premises where the incumbent LEC claims that physical collocation is not practical because of space limitations. An incumbent LEC that contends space for physical collocation is not available in an incumbent LEC premises must also allow the requesting carrier to tour the entire premises in question, not just the area in which space was denied, without charge, within ten days of the receipt of the incumbent LEC's denial of space.

* * * * *

(h) Upon request, an incumbent LEC must submit to the requesting carrier within ten days of the submission of the request a report indicating the incumbent LEC's available collocation space in a particular LEC premises. This report must specify the amount of collocation space available at each requested premises, the number of collocators, and any modifications in the use of the space since the last report. This report must also include measures that the incumbent LEC is taking to

make additional space available for collocation. The incumbent LEC must maintain a publicly available document, posted for viewing on the incumbent LEC's publically available Internet site, indicating all premises that are full, and must update such a document within ten days of the date at which a premises runs out of physical collocation space.

(i) An incumbent LEC must, upon request, remove obsolete unused equipment from their premises to increase the amount of space available for collocation.

4. Section 51.323 is amended by revising paragraphs (b), (c), (h), and (i) and adding new paragraph (k) to read as follows:

§ 51.323 Standards for physical collocation and virtual collocation.

* * * * *

(b) An incumbent LEC shall permit the collocation of any type of equipment used or useful for interconnection or access to unbundled network elements. Whenever an incumbent LEC objects to collocation of equipment by a requesting telecommunications carrier for the purposes within the scope of section 251(c)(6) of the Act, the incumbent LEC shall prove to the state commission that the equipment will not be actually used by the telecommunications carrier for the purpose of obtaining interconnection or access to unbundled network elements. An incumbent LEC may not object to the collocation of equipment on the grounds that the equipment does not comply with safety or engineering standards that are more stringent than the safety or engineering standards that the incumbent LEC applies to its own equipment. An incumbent LEC may not object to the collocation of equipment on the ground that the equipment fails to comply with National Equipment and Building Specifications performance standards. An incumbent LEC that denies collocation of a competitor's equipment, citing safety standards, must provide to the competitive LEC within five business days of the denial a list of all equipment that the incumbent LEC locates within the premises in question, together with an affidavit attesting that all of that equipment meets or exceeds the safety standard that the incumbent LEC contends the competitor's equipment fails to meet. Equipment used for interconnection and access to unbundled network elements includes, but is not limited to:

(1) Transmission equipment including, but not limited to, optical terminating equipment and multiplexers, and

(2) Equipment being collocated to terminate basic transmission facilities pursuant to §§ 66.1401 and 64.1402 of this chapter as of August 1, 1996.

(3) Digital subscriber line access multiplexers, routers, asyncronous transfer

(c) Nothing in this section requires an incumbent LEC to permit collocation of equipment used solely for switching or solely to provide enhanced services; provided, however, that an incumbent LEC may not place any limitations on the ability of requesting carriers to use all the features, functions, and capabilities of equipment collocated pursuant to paragraph (b) of this section, including, but not limited to, switching and routing features and functions and enhanced services functionalities.

* * * * *

(h) An incumbent LEC shall permit a collocating telecommunications carrier to interconnect its network with that of another collocating telecommunications carrier at the incumbent LEC's premises and to connect its collocated equipment to the collocated equipment of another telecommunications carrier within the same premises provided that the collocated equipment is also used for interconnection with the incumbent LEC or for access to the incumbent LEC's unbundled network elements.

(1) An incumbent LEC shall provide, at the request of a collocating telecommunications carrier, the connection between the equipment in the collocated spaces of two or more telecommunications carriers. The incumbent LEC must permit any collocating telecommunications carrier to construct its own connection between the carrier's equipment and that of one or more collocating carriers, if the telecommunications carrier does not request the incumbent LEC's construction of such facilities. The incumbent LEC must permit the requesting carrier to construct such facilities using copper or optical fiber equipment.

(2) An incumbent LEC shall permit collocating telecommunications carriers to place their own connecting transmission facilities within the incumbent LEC's premises outside of the actual physical collocation space, subject only to reasonable safety limitations.

(i) As provided herein, an incumbent LEC may require reasonable security arrangements to protect its equipment and ensure network reliability. An incumbent LEC may only impose security arrangements that are as stringent as the security arrangements that incumbent LECs maintain at their own premises for their own employees or authorized contractors. An incumbent LEC must allow collocating parties to access their collocated equipment 24 hours a day, seven days a week, without requiring either a security escort of any kind or delaying a competitor's employees' entry into the incumbent LEC's premises. Reasonable security measures that the incumbent LEC may adopt include:

(1) Installing security cameras or other monitoring systems; or

(2) Requiring competitive LEC personnel to use badges with computerized tracking systems; or

(3) Requiring competitive LEC employees to undergo the same level of security training, or its equivalent, that the incumbent's own employees, or third party contractors providing similar functions, must undergo; provided, however, that the incumbent LEC may not require competitive LEC employees to receive such training from the incumbent LEC itself, but must provide information to the competitive LEC on the specific type of training required so the competitive LEC's employees can conduct their own training.

* * * * *

(k) An incumbent LEC's physical collocation offering must include the following:

(1) *Shared collocation cages.* A shared collocation cage is a caged collocation space shared by two or more competitive LECs pursuant to terms and conditions agreed to by the competitive LECs. In making shared cage arrangements available, an incumbent LEC may not increase the cost of site preparation or nonrecurring charges above the cost for provisioning such a cage of similar dimensions and material to a single collocating party. In addition, the incumbent must prorate the charge for site conditioning and preparation undertaken by the incumbent to construct the shared collocation cage or condition the space for collocation use, regardless of how many carriers actually collocate in that cage, by determining the total charge for site preparation and allocating that charge to a collocating carrier based on the percentage of the total space utilized by that carrier. An incumbent LEC must make shared collocation space available in single-bay increments or their equivalent, i.e., a competing carrier can purchase space in increments small enough to collocate a single rack, or bay, of equipment.

(2) *Cageless collocation.* Incumbent LECs must allow competitors to collocate in any unused space in the incumbent LEC's premises, without requiring the construction of a cage or

similar structure, and without requiring the creation of a separate entrance to the competitor's collocation space. An incumbent LEC may require collocating carriers to use a central entrance to the incumbent's building, but may not require construction of a new entrance for competitors' use, and once inside the building, incumbent LECs must permit collocating carriers to have direct access to their equipment. An incumbent LEC may not require competitors to use an intermediate interconnection arrangement in lieu of direct connection to the incumbent's network if technically feasible. In addition, an incumbent LEC must give competitors the option of collocating equipment in any unused space within the incumbent's premises, and may not require competitors to collocate in a room or isolated space separate from the incumbent's own equipment. An incumbent LEC must make cageless collocation space available in single-bay increments, meaning that a competing carrier can purchase space in increments small enough to collocate a single rack, or bay, of equipment.

(3) *Adjacent space collocation.* An incumbent LEC must make available, where space is legitimately exhausted in a particular incumbent LEC premises, collocation in adjacent controlled environmental vaults or similar structures to the extent technically feasible. The incumbent LEC must permit the new entrant to construct or otherwise procure such an adjacent structure, subject only to reasonable safety and maintenance requirements. The incumbent must provide power and physical collocation services and facilities, subject to the same nondiscrimination requirements as applicable to any other physical collocation arrangement. The incumbent LEC must permit the requesting carrier to place its own equipment, including, but not limited to, copper cables, coaxial cables, fiber cables, and telecommunications equipment, in adjacent facilities constructed by either the incumbent LEC or by the requesting carrier itself.

[FR Doc. 99–10832 Filed 4–29–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–187; RM–9371]

Radio Broadcasting Services; Des Moines, IA; Bennington, NE

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the joint request of Triathlon Broadcasting of Omaha Licensee, Inc., licensee of Station KTNP, Bennington, NE, and Saga Communications of Iowa, Inc., licensee of Station KIOA–FM, Des Moines, IA, substitutes Channel 227C3 for Channel 227A at Bennington, NE, modifies the license of Station KTNP to specify the higher powered channel, substitutes Channel 227C1 for Channel 227C at Des Moines, IA, and modifies the license of Station KIOA–FM to specify the lower class channel. *See* 63 FR 57637, October 27, 1998. Channel 227C1 can be allotted to Des Moines in compliance with the Commission's minimum distance separation requirements and can be used at Station KIOA–FM's licensed site, at coordinates 41–37–54 NL; 93–27–24 WL. Channel 227C3 can be allotted to Bennington, NE, with a site restriction of 15.2 kilometers (9.4 miles) east, at coordinates 41–20–43 NL; 95–58–33 WL, to accommodate Triathlon Broadcasting's desired site. With this action, this proceeding is terminated.

EFFECTIVE DATE: Effective June 7, 1999.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–187, adopted April 14, 1999, and released April 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, S.W., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by removing Channel 227C and adding Channel 227C1 at Des Moines.

3. Section 73.202(b), the Table of FM Allotments under Nebraska, is amended by removing Channel 227A and adding Channel 227C3 at Bennington.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–10906 Filed 4–29–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–27; RM–9188]

Radio Broadcasting Services; Munds Park, AZ

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This documents allots Channel 291A to Munds Park, Arizona, as that community's first local aural transmission service, in response to a petition filed by Dancing Terrapin Broadcasting. *See* 63 FR 12427, March 13, 1998. Coordinates used for Channel 291A at Munds Park are 34–56–44 NL and 111–38–22 WL. With this action, the proceeding is terminated.

DATES: Effective June 7, 1999. A filing window for Channel 291A at Munds Park, Arizona, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent Order.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner Mass Media Bureau, (202) 418–2180. Questions related to the application filing process should be addressed to the Audio Services Division, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–27, adopted April 14, 1999, and released April 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY A–257),

445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 reads as follows:

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by adding Munds Park, Channel 291A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–10907 Filed 4–29–99; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304063–9063–01; I.D. 042799B]

Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock sole/Flathead sole/''Other flatfish'' Fishery Category by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area

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

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for species in the rock sole/flathead sole/''other flatfish'' fishery category by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the second seasonal apportionment of the 1999 Pacific halibut bycatch allowance specified for the trawl rock sole/flathead sole/''other flatfish'' fishery category.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 27, 1999, until 1200 hrs, A.l.t., July 4, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Final 1999 Harvest Specifications of Groundfish (64 FR 12103, March 11, 1999) established the second seasonal apportionment of halibut bycatch mortality, specified for the BSAI trawl rock sole/flathead sole/''other flatfish'' fishery category, which is defined at § 679.21(e)(3)(iv)(B)(*2*), as 123 metric tons.

In accordance with § 679.21(e)(7)(v), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the second seasonal apportionment of the 1999 halibut bycatch allowance specified for the trawl rock sole/flathead sole/''other flatfish'' fishery in the BSAI has been caught. Consequently, the Regional Administrator is closing directed fishing for species in the rock sole/flathead sole/''other flatfish'' fishery category by vessels using trawl gear in the BSAI.

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

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent exceeding the second seasonal apportionment of the 1999 halibut bycatch allowance specified for the trawl rock sole/flathead sole/''other flatfish'' fishery category. Providing prior notice and an opportunity for public comment on this action is impracticable and contrary to the public interest. The fleet will soon take the apportionment. Further delay would only result in the second seasonal apportionment of the 1999 halibut bycatch allowance being exceeded. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under U.S.C. 553(d), a delay in the effective date is hereby waived.

Classification

This action is required by 50 CFR 679.21 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 27, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–10863 Filed 4–27–99; 3:25 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 83
Friday, April 30, 1999

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

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 20, and 25

[REG–103851–99]

RIN 1545–AX07

Use of Actuarial Tables in Valuing Annuities, Interests for Life or Terms of Years, and Remainder or Reversionary Interests

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: These proposed regulations relate to the use of actuarial tables in valuing annuities, interests for life or terms of years, and remainder or reversionary interests. These regulations are necessary because section 7520(c)(3) directs the Secretary to update the actuarial tables to reflect the most recent mortality experience available. These regulations will effect the valuation of inter vivos and testamentary transfers of interest dependent on one or more measuring lives. The text of the temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** also serves as the text of these proposed regulations.

DATES: Written and electronic comments and requests for a public hearing must be received by July 29, 1999.

ADDRESSES: Send submissions to CC:DOM:CORP:R (REG–103851–99), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may also be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–103851–99), 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/taxregs/comments.html.*

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, William L. Blodgett, (202) 622–3090; concerning submissions, Guy Traynor, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend Income Tax Regulations (26 CFR part 1) under sections 642(c)(5) and 664, Estate Tax Regulations (26 CFR part 20) under section 2031, and Gift Tax Regulations (26 CFR part 25) under section 2512. These regulations revise actuarial tables used for the valuation of partial interests in property under section 7520 to reflect the mortality experience based on the 1990 United States census, the most recent mortality experience available.

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 Analysis

It has been determined that this notice of proposed rulemaking 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, and because these regulations do not impose a collection of information requirement on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. 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 business.

Proposed Effective Date

The regulations are proposed to apply to the valuation of annuities, interests for life or terms of years, and remainder or reversionary interests for valuation dates after April 30, 1999.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic and written comments (a signed original and 8 copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person who timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting information. The principal author of these regulations is William L. Blodgett, Office of Assistant Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 20

Estate taxes, Reporting and recordkeeping requirements.

26 CFR Part 25

Gift 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 continues to read in part as follows:

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

Par. 2. Section 1.170A–12 is amended by revising paragraphs (b)(2) and (b)(3) to read as follows:

§ 1.170A–12 Valuation of a remainder interest in real property for contributions made after July 31, 1969.

* * * * *

(b) * * *

(2) [The text of this proposed paragraph (b)(2) is the same as the text of § 1.170A–12T(b)(2) published elsewhere in this issue of the **Federal Register**].

(3) [The text of this proposed paragraph (b)(3) is the same as the text of § 1.170A–12T(b)(3) published elsewhere in this issue of the **Federal Register**].

* * * * *

Par. 3. Section 1.642(c)–6 is amended by revising paragraphs (d), (e) and (f) to read as follows:

§ 1.642(c)–6 Valuation of a remainder interest in property transferred to a pooled income fund.

* * * * *

(d) [The text of this proposed paragraph (d) is the same as the text of § 1.642(c)–6T(d) published elsewhere in this issue of the **Federal Register**].

(e) [The text of this proposed paragraph (e) is the same as the text of § 1.642(c)–6T(e) published elsewhere in this issue of the **Federal Register**].

(f) [The text of this proposed paragraph (f) is the same as the text of § 1.642(c)–6T(f) published elsewhere in this issue of the **Federal Register**].

Par. 4. Section 1.664–4 is amended by revising paragraphs (a)(1), (d), (e) and (f) to read as follows:

§ 1.664–4 Calculation of the fair market value of the remainder interest in a charitable remainder unitrust.

(a) * * *

(1) [The text of this proposed paragraph (a)(1) is the same as the text of § 1.664–4T(a)(1) published elsewhere in this issue of the **Federal Register**].

* * * * *

(d) [The text of this proposed paragraph (d) is the same as the text of § 1.664–4T(d) published elsewhere in this issue of the **Federal Register**].

(e) [The text of this proposed paragraph (e) is the same as the text of § 1.664–4T(e) published elsewhere in this issue of the **Federal Register**].

(f) [The text of this proposed paragraph (f) is the same as the text of § 1.664–4T(f) published elsewhere in this issue of the **Federal Register**].

Par. 4. Section 1.7520–1 is amended by revising paragraphs (b)(2), (c)(1), (c)(2) and (d) to read as follows:

§ 1.7520–1 Valuation of annuities, unitrust interest, interests for life or terms of years, and remainder or reversionary interests.

* * * * *

(b) * * *

(2) [The text of this proposed paragraph (b)(2) is the same as the text of § 1.7520–1T(b)(2) published elsewhere in this issue of the **Federal Register**].

(c) * * *

(1) [The text of this proposed paragraph (c)(1) is the same as the text of § 1.7520–1T(c)(1) published elsewhere in this issue of the **Federal Register**].

(2) [The text of this proposed paragraph (c)(2) is the same as the text of § 1.7520–1T(c)(2) published elsewhere in this issue of the **Federal Register**].

(d) [The text of this proposed paragraph (d) is the same as the text of § 1.7520–1T(d) published elsewhere in this issue of the **Federal Register**].

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

Par. 5. The authority citation for part 20 continues to read in part as follows:

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

Par. 6. Section 20.2031–7 is amended by revising paragraphs (c), (d) and (e) to read as follows:

§ 20.2031–7 Valuation of annuities, interests for life or term of years , and remainder or reversionary interests.

* * * * *

(c) [The text of this proposed paragraph (c) is the same as the text of § 20.2031–7T(c) published elsewhere in this issue of the **Federal Register**].

(d) [The text of this proposed paragraph (d) is the same as the text of § 20.2031–7T(d) published elsewhere in this issue of the **Federal Register**].

(e) [The text of this proposed paragraph (e) is the same as the text of § 20.2031–7T(e) published elsewhere in this issue of the **Federal Register**].

Par. 7. Section 20.7520–1 is amended by revising paragraphs (a)(2), (b)(2), (c)(1), (c)(2) and (d) to read as follows:

§ 20.7520–1 Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests.

(a) * * *

(2) [The text of this proposed paragraph (a)(2) is the same as the text of § 20.7520–1T(a)(2) published elsewhere in this issue of the **Federal Register**].

* * * * *

(b) * * *

(2) [The text of this proposed paragraph (b)(2) is the same as the text of § 20.7520–1T(b)(2) published elsewhere in this issue of the **Federal Register**].

(c) * * *

(1) [The text of this proposed paragraph (c)(1) is the same as the text of § 20.7520–1T(c)(1) published elsewhere in this issue of the **Federal Register**].

(2) [The text of this proposed paragraph (c)(2) is the same as the text of § 20.7520–1T(c)(2) published elsewhere in this issue of the **Federal Register**].

(d) [The text of this proposed paragraph (d) is the same as the text of § 20.7520–1T(d) published elsewhere in this issue of the **Federal Register**].

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

Par. 8. The authority citation for part 25 continues to read in part as follows:

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

Par. 9. Section 25.2512–5 is amended by revising paragraphs (c), (d) and (e) to read as follows:

§ 25.2512–5 Valuation of annuities, unitrust interest, interests for life or term of years, and remainder or reversionary interests.

* * * * *

(c) [The text of this proposed paragraph (c) is the same as the text of § 25.2512–5T(c) published elsewhere in this issue of the **Federal Register**].

(d) [The text of this proposed paragraph (d) is the same as the text of § 25.2512–5T(d) published elsewhere in this issue of the **Federal Register**].

(e) [The text of this proposed paragraph (e) is the same as the text of § 25.2512–5T(e) published elsewhere in this issue of the **Federal Register**].

Par. 10. Section 25.7520–1 is amended by revising paragraphs (b)(2), (c)(1), (c)(2) and (d) to read as follows:

§ 25.7520–1 Valuation of annuities, unitrust interests, interests for life or term of years, and remainder or reversionary interests.

* * * * *

(b) * * *

(2) [The text of this proposed paragraph (b)(2) is the same as the text of § 25.7520–1T(b)(2) published elsewhere in this issue of the **Federal Register**].

(c) * * *

(1) [The text of this proposed paragraph (c)(1) is the same as the text of § 25.7520–1T(c)(1) published elsewhere in this issue of the **Federal Register**].

(2) [The text of this proposed paragraph (c)(2) is the same as the text of § 25.7520–1T(c)(2) published elsewhere in this issue of the **Federal Register**].

(d) [The text of this proposed paragraph (d) is the same as the text of § 25.7520–1T(d) published elsewhere in this issue of the **Federal Register**].

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 99–10534 Filed 4–29–99; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 98–147, FCC 99–48]

Deployment of Wireline Services Offering Advanced Telecommunications Capability

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, we propose to establish certain spectrum compatibility and management rules in order to promote the timely deployment of advanced services without significantly degrading the performance of other advanced services or traditional voice band services. These rules rest upon currently established technical standards and practices. We recognize that, in the long term, more comprehensive standards and practices must be developed. The Commission is therefore issuing this Further Notice of Proposed Rulemaking (FNPRM) seeking comment on proposed regulations to resolve, in a timely manner, the host of long-term spectrum compatibility and management issues. In addition, the FNPRM tentatively concludes that it is technically feasible for two different carriers sharing a single line to provide traditional voice service and advanced services. The FNPRM seeks comment on a host of issues associated with the ramifications of mandating such line sharing.

DATES: Comments are due on or before June 15, 1999 and Reply Comments are due on or before July 15, 1999. Written comments by the public on the proposed information collections are due June 15, 1999.

ADDRESSES: Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., Room TW–A325, Washington, D.C. 20554, with a copy to Janice Myles of the Common Carrier Bureau, 445 12th Street, S.W., Room 5–C327, Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 1231 20th St., N.W., Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Staci Pies, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418–1580. Further information may also be obtained by calling the Common Carrier Bureau's TTY number: 202–418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking adopted March 18, 1999 and released March 31, 1999. The full text of this FNPRM is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th St., S.W., Room CY–A257, Washington, D.C. The complete text also may be obtained through the World Wide Web, at http://www.fcc.gov/Bureaus/Common Carrier/Orders/fcc9948.wp, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th St., N.W., Washington, D.C. 20036.

Synopsis of Further Notice of Proposed Rulemaking

A. Spectrum Compatibility—Long-Term Standards and Practices

1. Overview

1. In the *Advanced Services Order and NPRM* 63 FR 45134, August 24, 1998, we requested comment on loop spectrum issues. We asked commenters to address any degradation of service that may result from provision of advanced services using different signal formats on copper pairs in the same bundle. In the Order, we establish spectrum compatibility and management rules to the extent currently feasible in order to promote the timely deployment of advanced services without significantly degrading the performance of other advanced services or traditional voice band services. These rules rest upon currently established technical standards and practices. We recognize that, in the long term, more comprehensive technical standards and practices must be developed. We therefore adopt this Further NPRM, through which we hope to resolve, in a timely manner, the host of long-term spectrum compatibility and management issues.

2. Discussion

2. In the companion Order, we find that incumbent LECs may not unilaterally set spectrum compatibility and spectrum management policies. In place of incumbent LEC-determined standards and practices, we found in the companion Order that there should be a competitively neutral spectrum standards setting process to investigate the actual level of interference between technologies to determine what technologies are deployable and under what circumstances. In this Further NPRM, we tentatively conclude that this process should include the active participation of the incumbent LECs, competitive LECs, equipment suppliers, and the Commission. We further tentatively conclude the following: the process should be competitively neutral in both structure and procedure; representation should be equitably spread over all segments of the industry; and representatives should have equal authority, with no party or groups of parties presuming to have greater weight or ''veto'' power. We seek comment on these tentative conclusions and how to establish such a process to develop long-term standards and practices. We also seek comment on our authority to direct industry bodies to engage in the process of developing spectrum compatibility and management policies, and our authority to compel industry bodies to adhere to any requirements we establish for the functioning of such bodies.

3. In this Further NPRM we seek comment on two broad and interrelated issues: spectrum compatibility and spectrum management. With regard to spectral compatibility, we generally believe, as indicated in the Order, that the industry, via its standards bodies, can create acceptable standards for xDSL and other advanced services. Much of the standards development process is continuous in nature, and our hope is that the industry will fairly and expeditiously develop standards beyond completion of this proceeding. Future technologies will require the T1E1.4, or other standards bodies, to develop these compatibility standards in a timely, fair, and open manner. We believe, however, that the Commission can play a role in fostering timely, fair, and open development of standards for current and future technologies.

4. We seek comment on the best process or forum for developing future power spectral density (PSD) masks. We tentatively conclude that T1E1.4 is the best choice for this task. Commenters have expressed concern, however, that T1E1.4 is not representative of the developing advanced services industry as a whole and may be overly represented by incumbent carriers and large manufacturers. We seek comments on how to foster broader representation and participation in this standards body. We also ask commenters to suggest other forums or methods of guaranteeing fair and timely resolution of spectrum compatibility problems.

5. We seek comment on whether generic masks would be an appropriate means to address spectrum compatibility. We seek comment on whether this approach might restrict deployment of technologies that otherwise would not harm the network.

6. We seek comment on whether a calculation-based approach, in addition

to a power spectral density mask-based approach, provides a better tool for defining spectral compatibility We specifically seek comment whether such an approach provides a more accurate predictor of spectrum compatibility.

7. With regard to spectrum management, we believe that comments in response to this Further NPRM can provide the information necessary to establish long-term spectrum management rules. Our goal is that the rules developed as a result of the Further NPRM will encourage technical innovation while preserving network reliability. Although we believe that T1E1.4 could serve as the common ground where industry resolves these issues, we think the Commission can facilitate industry development of fair standards through this Further NPRM. We seek specific comment and clarification on the following items initially raised in the NPRM, but not sufficiently explicated in the record.

8. We seek comment on methods to encourage the industry to develop fair and open practices for the deployment of advanced services technologies. We tentatively conclude that T1E1.4 should serve as the forum to establish fair and open deployment practices. This conclusion is premised on the assumption that a method will be developed by which to ensure the active participation of all segments of the industry in T1E1.4. What role should the Commission play in facilitating broad participation in this process?

9. We ask commenters to consider how to maximize the deployment of new technologies within binder groups while minimizing interference. We seek comment on the development of xDSL binder group administration practices, including specifications on the types and numbers of technologies that can be deployed within a binder group. This should include procedures allowing for deployment of various xDSL-based services in a nonrestrictive manner. We seek comment on the procedures for maintaining and updating these administrative practices so as to minimize interference with future technologies. We seek comment on the practice of segregating services based on the technology. For example, we recognize AMI T1 as a potential disturber and understand that incumbent LECs currently assign AMI T1 to separate binder groups. Competitive LECs have expressed concern that incumbent LECs might apply a similar segregation practice to xDSL technology—a practice competitive LECs claim is not necessary or beneficial. We seek comment on whether to allow incumbent LECs to segregate xDSL technology in such a manner.

10. We seek comment on whether we should establish a grandfathering process for interfering technologies. For example, should the Commission establish a sunset period for services such as AMI T1? As noted above, we recognize that carriers have a substantial base of AMI T1 in deployment and that in some areas AMI T1 provides the only feasible high-speed transmission capability. We seek comment on whether carriers should be required to replace AMI T1 with new and less interfering technologies, and, if so, what time frame would be reasonable. We ask commenters to propose rules for a possible grandfathering process which will not disrupt the network and simultaneously encourage investment in, and deployment of, new technology.

11. We seek comment on whether to develop a dispute resolution process regarding the existence of disturbers in shared facilities. Specifically, we ask commenters to suggest how best to resolve disputes arising out of claims that a technology is ''significantly degrading'' the performance of other services. We also seek comment on whether, and if so, how we should define ''significantly degrade'' so as to ensure that consumers have the broadest selection of services from which to choose without harming the network. If we develop a dispute resolution process, should it rely on an outside party as an arbitrator, such as the state commission, the FCC, or a neutral third party, or should the procedures simply provide the rules by which players must conform?

12. We seek comment to determine whether the Commission should solicit the assistance of a third party in developing loop spectrum management policies. What role could such a third party serve in facilitating communication between the industry and regulatory bodies? Should it serve a role similar to the role served by the administrator for local number portability? Should it be empowered to develop binder group management procedures, facilitate the development of future PSD masks, and resolve disputes between carriers over the existence of disturbers in shared facilities? We also ask parties to comment on whether a voluntary industry effort could effectively address loop management issues.

13. We acknowledge that the industry, via the T1E1.4, is currently engaged in developing standards for various varieties of xDSL technologies. We recognize further that the industry can best address many of the details concerning spectral compatibility. Furthermore, we acknowledge that many of the spectral compatibility issues will require on-going analysis and oversight beyond the completion of this proceeding. Although we have initiated this Further NPRM in order to develop rules to address long-term spectrum management concerns, we expect that the industry, via the T1E1.4 or other bodies, will continue to develop standards and procedures to promote deployment of advanced services and resolve the problems that arise when multiple carriers deploy multiple technologies over the same facilities. We encourage the industry, through its standards bodies, to continue its independent efforts to develop long-term standards and practices for spectrum management. We expect that the industry will conduct this ongoing role in a expeditious, fair and open manner.

14. We ask commenters to address any additional measures the Commission could take to ensure that spectrum compatibility and management concerns are resolved in a fair and expeditious manner. We also ask commenters to consider what measures the Commission could take to ensure that spectral compatibility requirements are forward-looking and able to evolve over time to encourage, rather than stifle, innovation and deployment of advanced services.

B. Line Sharing

1. Overview

15. In the *Advanced Services Order and NPRM*, we sought comment on whether two different service providers should be allowed to offer services over the same line, with each provider utilizing different frequencies to transport voice or data over that line. We asked commenters whether we should mandate such line sharing, specifically whether the competitive LEC should have the right to run high frequency data signals, or other advanced services, over the same line as the incumbent LEC's voice signal.

16. Shared line access makes it possible for a competing carrier to offer advanced services over the same line that a consumer uses for voice service without requiring the competing carrier to take over responsibility for providing the voice service. Such shared line access would enable new entrants to focus solely on the advanced services market without having to acquire the resources or the expertise to provide other types of telecommunications services, such as analog voice service. Shared line access could also remove

any cost disadvantage that an advanced services only provider might face if it had to provide advanced services over a stand-alone line. A competitive LEC, therefore, may want to take advantage of the ability of advanced services technology, such as ADSL, to run on the frequency above the analog voice channel by providing only high-speed data service, without voice service, over a loop.

17. We believe each end user customer should be able to choose from a broad array of services and from whom to obtain these services. In particular, we believe allowing consumers to keep their voice service provider while allowing them to obtain advanced services on the same line from a different provider will foster consumer choice and promote innovation and competitive deployment of advanced services.

18. Line sharing assumes that a requesting carrier will have access to the incumbent LEC's local loop. While the Supreme Court, in *Iowa Utilities Board*, has directed the Commission to reevaluate the standard for defining the local loop as an unbundled network element, we see no reason to delay seeking comment in this proceeding on whether competing carriers may have access to the high frequency portion on an incumbent LEC's loop. To the extent that any redefinition of the local loop, or other network elements, affects any conclusions drawn from this proceeding, we will revise our analysis and conclusions accordingly.

2. Discussion

19. The existing record indicates that incumbent LECs have denied competitors the option of offering advanced services over the same line on which the incumbent LEC provides voice service.

20. We decline, however, to mandate line sharing at the federal level at this time under the accompanying Report and Order. Although we find no evidence that line sharing is not technically feasible, we find that the record does not sufficiently address the operational, pricing, and other practical issues that may arise if LECs are compelled to share lines with competitors. We acknowledge that the Commission has concluded that a ''determination of technical feasibility does not include consideration of economic, accounting, billing, space, or site, concerns.'' Several incumbent LECs have raised, however, billing, accounting, and other operational issues, that we would like to consider before we determine whether to mandate line sharing nationwide. While none of the issues raised by the incumbents challenge the technical feasibility of line sharing, we believe that there may be practical considerations that have not been adequately addressed in the existing record. Moreover, there may be policy considerations that weigh against line sharing, even if the Commission were to conclude that technical and operational concerns could be met. As a result, we seek additional comments in the Further NPRM in order to develop a more comprehensive record on the policy and practical ramifications of federally mandated line sharing, including any policy considerations that weigh against line sharing.

a. Authority to Require Line Sharing

21. In *Iowa Utilities Board*, the Supreme Court held that we have jurisdiction to implement the local competition provisions of the Act and that our rulemaking authority extends to sections 251 and 252. We therefore tentatively conclude that we have authority to require line sharing. We seek comment on this tentative conclusion. Finally, we tentatively conclude that nothing in the Act, our rules, or caselaw precludes states from mandating line sharing, regardless of whether the incumbent LEC offers line sharing to itself or others, and regardless of whether it offers advanced services. We seek comment on these tentative conclusions.

b. Access to ''High-Frequency Portion'' of the Loop

22. We tentatively conclude that incumbent LECs must provide requesting carriers with access to the transmission frequencies above that used for analog voice service on any lines that LECs use to provide exchange service when the LEC itself provides both exchange and advanced services over a single line. We tentatively conclude that, without such a ruling, competitive LECs will be hampered in their ability to compete in providing advanced services to end users because the competitive LEC would have to obtain a new line from the incumbent LEC in order to provide advanced services whereas the incumbent LEC could provide advanced services far less expensively by using the existing line. We seek comment on these tentative conclusions. Moreover, in the absence of line sharing, the competing carrier effectively may be forced to provide both voice and data over the local loop it leases from the incumbent. This means that the competing carrier potentially must invest in two technologies—circuit switched technology for voice transmissions and packet switched technologies for data. The competing carrier may need to make this investment in circuit technology even though that technology may become obsolete over time. We seek comment on the extent to which the absence of line sharing requires such dual investment and the competitive effect of such dual investment.

23. We also seek comment in this proceeding on whether we should more precisely define what constitutes the frequency above that used for analog voice service, so that it is clear to all parties what the incumbent must unbundle, in the event we require line sharing. We ask commenters to address whether setting a specific dividing line between a low frequency channel and a high frequency channel on the loop would arbitrarily freeze technological development and deny carriers opportunities to use the loop to provision services that rely on different frequencies bands within the loop.

24. We also tentatively conclude that any rules we adopt on line sharing should not mandate a particular technological approach to the use of a line for multiple services. We believe that shared line access is a rapidly evolving technology and any rules we adopt must be forward-looking and flexible enough to stimulate, rather than stifle, technological innovation. We ask commenters to address how we can construct regulations that promote local competition and technological innovation so that American consumers can take full advantage of the line's features, functionalities, and capabilities.

c. Technical, Operational, Economic, Pricing, and Cost Allocation Issues Associated with Line Sharing

25. The current record in this proceeding reveals that incumbent LECs have opposed line-sharing with xDSL-based providers on the grounds that simultaneous provision of advanced service and voice service over a single line by separate providers is not technically feasible. These parties broadly argue that allowing new entrants to acquire rights to the high frequency channel of the line, while declining to purchase the voice channel of the line, would harm the network. We find that incumbent LECs have placed nothing on the record in this proceeding demonstrating that a competitor's advanced services equipment is likely to cause any network problems.

26. *Technical Issues.* We find nothing in the existing record to persuade us that line sharing is not technically feasible. In fact, incumbent LECs are

already sharing the line for the provision of both voice and advanced services. Because incumbent LECs are already using single lines to provide both voice and advanced services and are even sharing lines with other providers for the provision of both voice and advanced services, it appears that there exists no bona fide issue of technical infeasibility. As such, we tentatively conclude that line sharing is technically feasible. We seek comment on this tentative conclusion.

27. Although not set forth in the record, we can conceive of some circumstances in which advanced services cannot share a line with analog voice service. We tentatively conclude that such isolated situations can be remedied and should not interfere with the incumbent's general obligation to share the line. We tentatively conclude that, to the extent that an incumbent LEC can demonstrate to the state commission that digital loop conditioning would interfere with the analog voice service of the line, line sharing is not technically feasible on that particular line, and the incumbent is not obligated to share that line. We tentatively conclude that incumbent LECs would be required to perform other sorts of conditioning, such as removing bridge taps or cleaning up splices along the loop, that would not interfere with the analog voice signal. We seek comment on these tentative conclusions. We ask commenters to address any other technical problems that may arise in line sharing arrangements and to suggest remedies for such problems.

28. *Operational Issues.* In addition to technical feasibility concerns, commenters raise concerns about operational barriers to line sharing. We ask commenters to discuss the operational issues that may arise with line sharing. For example, what effect will line sharing have on existing analog voice service? Should carriers be allowed to request just the voice channel of a line? Should carriers be allowed to request any unused portion of a line? How will line sharing affect existing and evolving operations support systems? To what extent will LEC operations support systems needed to be modified in order to allow two carriers to share a line? Which entity should manage the multiplexing equipment if two carriers are offering services over the same loop? Should different customers be allowed on the same physical loop? How and by whom should problems on the line be handled? What happens if conditioning a loop for advanced services requires removal of repeaters or load coils, which are needed to preserve the quality of the analog voice signal? These examples are merely illustrative of issues that may arise from two carriers providing services over the same line. We ask commenters to address these issues and any other operational, administrative, and pricing concerns with specificity.

29. *Economic, Pricing, and Cost Allocation Issues.* We also seek comment on the economic, pricing, and cost allocation issues that may arise from line sharing. For example, how might line sharing affect federal and state access charge regimes and universal service mechanisms? What are the pricing consequences of requiring line sharing (*e.g.*, what consequences will line sharing have on the price of the unbundled local loop)? Should the entire cost of the loop be imputed to the voice channel or divided equally or otherwise between the two services sharing the facility? What cost allocation issues, if any, are raised by line sharing? What effect will line sharing have on new entrants' ability to compete with incumbents? How will line sharing stimulate or retard innovation? How will line sharing affect investment in local exchange facilities?

30. Finally, we ask commenters to address the continued viability of line sharing arrangements as telecommunications network architectures migrate from a circuit to a packet environment. As carriers deploy ATM and other packet technologies, and as voice traffic moves from the circuit-switched network to Internet Protocol (IP) or ATM networks, is a line sharing requirement commercially or technically feasible? Commenters should address whether a competitive LEC's ability to deliver voice service over a packet-switched network obviates the need to share a loop with the incumbent LEC.

C. Procedural Matters

1. Ex Parte Presentations

31. The matter in Docket No. 98–147, initiated by the Further NPRM portion of this item, shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other rules pertaining to oral and written presentations are set forth in section 1.1206(b) as well.

2. Initial Paperwork Reduction Act Analysis

32. The Further NPRM contains either a proposed or modified information collection. As part of its continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this Notice, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this Notice; OMB comments are due June 29, 1999. Comments should address: (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 estimates; (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.

3. Initial Regulatory Flexibility Analysis

33. As required by the Regulatory Flexibility Act, *see* 5 U.S.C. 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible impact on small entities of the proposals suggested in this document. The IRFA is set forth in the Appendix. Written public comments are requested with respect to the IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the rest of the NPRM, but they must have a separate and distinct heading, designating the comments as responses to the IRFA. The Office of Public Affairs, Reference Operations Division, will send a copy of this NPRM , including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act.

4. Comment Filing Procedures

34. The proceeding, Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98–147, is initiated by the Further NPRM portion of this item. Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before June 15, 1999 and reply comments on or before July

15, 1999. All filings should refer *only* to Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98–147. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number, which in this instance is CC Docket No. 98–147. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address.'' A sample form and directions will be sent in reply.

35. Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th St. S.W., Room TW–A325, Washington, D.C. 20554.

36. Regardless of whether parties choose to file electronically or by paper, parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 1231 20th Street, N.W., Washington, D.C., 20036. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 445 12th Street, S.W., Room CY–A257, Washington, DC 20554.

37. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with section 1.49 and all other applicable sections of the Commission's rules. We also direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission. We also strongly encourage that parties track the organization set forth in this NPRM in order to facilitate our internal review process.

38. Written comments by the public on the proposed information collections are due on or before June 15, 1999 and reply comments on or before July 15, 1999. Written comments must be submitted by the OMB on the proposed information collections on or before 60 days after date of publication in the **Federal Register**. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, 1–C804, 445 12th Street, SW, Washington, DC 20554 or via the Internet to jboley@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725-17th Street, N.W., Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

5. Further Information

39. For further information regarding this proceeding, contact Michael Pryor, Deputy Division Chief, Policy and Program Planning Division, Common Carrier Bureau, at 202–418–1580 or mpryor@fcc.gov. Further information may also be obtained by calling the Common Carrier Bureau's TTY number: 202–418–0484.

VI. Ordering Clauses

40. It is ordered that, pursuant to sections 1–4, 10, 201, 202, 251–254, 256, 271, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 160, 201, 202, 251–254, 256, 271, and 303(r), the Further Notice of Proposed Rulemaking is hereby adopted.

41. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of the Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Initial Regulatory Flexibility Analysis

1. As required by Section 603 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 603, the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the expected significant economic impact on small entities by the policies and rules proposed in the Further Notice of Proposed Rulemaking (Further NPRM). Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Further Notice. The Commission will send a copy of the Further NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Admininistration in accordance with section 603(a) of the Flexibility Act.

I. Need for and Objectives of the Proposed Rule

2. The Commission is issuing the Further NPRM to seek comment on issues related to spectral compatibility and spectral management. We ask commenters to consider whether the Commission should establish rules for deployment of central office equipment similar to those set forth in part 68 of our rules. We also ask commenters to address the technical, operational, pricing, legal or policy ramifications of line sharing. We tentatively conclude that there are no technical, legal, regulatory or policy obstacles to line sharing among competing carriers. Further, we seek comment on our tentative conclusions that incumbent LECS must provide requesting carriers with unbundled access to the transmission frequencies above that used for analog voice service on any loops that LECs use to provide exchange service when the LEC itself provides both exchange and advanced services over a single loop. We ask commenters to address any other technical problems that may arise in line sharing arrangements and to suggest remedies for such problems.

II. Legal Basis

3. The legal basis for any action that may be taken pursuant to the Further NPRM is contained in sections 1–4, 10, 201, 202, 251–254, 271, and 303(r) of the Communications Act as amended, 47 U.S.C. 151–154, 160, 201, 202, 251–254, 271, and 303(r).

III. Description and Estimates of the Number of Small Entities Affected by the Further Notice of Proposed Rulemaking

4. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposals in this Further NPRM, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. 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).

5. Below, we further describe and estimate the number of small entities that may be affected by the proposals in this Further NPRM, if adopted.

6. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Telecommunications Industry Revenue* report, regarding the Telecommunications Relay Service (TRS). According to data in the most recent report, there are 3,459 interstate carriers. These carriers include, *inter alia,* local exchange carriers (LECs), wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

7. The SBA has defined establishments engaged in providing ''Telephone Communications, Except Radiotelephone'' to be small businesses when they have no more than 1,500 employees. Below, we discuss the total estimated number of telephone companies and small businesses in this category, and we then attempt to refine further those estimates.

8. Although some affected incumbent LEC may have 1,500 or fewer employees, we do not believe that such entities should be considered small entities within the meaning of the RFA because they are either dominant in their field of operations or are not independently owned and operated, and therefore by definition not ''small entities'' or ''small business concerns'' under the RFA. Accordingly, our use of the terms ''small entities'' and ''small businesses'' does not encompass small incumbent LECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will separately consider small incumbent LECs within this analysis and use the term ''small incumbent LECs'' to refer to any incumbent LECs that arguably might be defined by the SBA as ''small business concerns.''

9. Local Exchange Carriers. Neither the Commission nor the SBA has developed a definition for small LECs. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Telecommunications Industry Revenue* data, 1,371 carriers reported that they were engaged in the provision of local exchange services. We do not have data specifying the number of these carriers that are either dominant in their field of operations, are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 1,371 providers of local exchange service are small entities or small incumbent LECs that may be affected by the proposed rules, if adopted.

10. *Competitive LECs.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of competitive LECs. The closest applicable definition under the SBA rules is for telephone communications companies except radiotelephone (wireless) companies. The most reliable source of information regarding the number of competitive LECs nationwide is the data that we collect annually in connection with the TRS Worksheet. According the most recent *Telecommunications Industry Revenue* data, 109 companies reported that they were engaged in the provision of either competitive local exchange service or competitive access service, which are placed together in the data. We do not have information on the number of carriers that are not independently owned and operated, nor have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of competitive LECs that would qualify as small business concerns under the SBA definition. Consequently, we estimate that there are fewer than 109 small competitive LECs or competitive access providers.

IV. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

11. We were unable to gather a sufficient record on the development of rules relating to procedures for equipment testing and compliance, so we seek additional comments on this issue. We are seeking comments on whether the Commission should establish rules for deployment of central office equipment similar to those set forth in Part 68 of our rules. We also ask commenters to address whether the Commisison should be involved with the actual testing and compliance procedures or whether the industry is better suited to serve this function through the use of independent and accredited labs. We ask commenters to address any additional measures the Commission could take to ensure that spectrum compatibility and management concerns are resolved in a fair and expeditious manner. We seek comment on the level of demand for line sharing, and on technical and operational obstacles to sharing a single loop between two service providers.

V. Significant Alternatives to Proposed Rule Which Minimize Significant Economic Impact on Small Entities and Small Incumbent LECs, and Accomplish Stated Objectives

12. In this Further NPRM, we seek to develop a record sufficient enough to adequately address issues related to developing long-term standards and practices for spectral compatibility and management. In addressing these issues, we seek to ensure that competing carriers, including small entity carriers, obtain access to inputs necessary to the provision of advanced services. We tentatively conclude that our proposals in the Further NPRM would impose minimum burdens on small entities. We seek comment on these proposals and the impact they may have on small entities.

VI. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rule

13. None.

[FR Doc. 99–10833 Filed 4–29–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–125, RM–9542]

Radio Broadcasting Services; Huntington, UT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Mountain West Broadcasting proposing the allotment of Channel 296C2 at Huntington, Utah, as the community's first local broadcast service. The channel can be allotted to Huntington without a site restriction at coordinates 39–19–36 NL and 110–57–50 WL.

DATES: Comments must be filed on or before June 14, 1999, and reply comments on or before June 29, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the

petitioner, as follows: Victor A. Michael, President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–125, adopted April 14, 1999, and released April 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–10908 Filed 4–29–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–126, RM–9518]

Radio Broadcasting Services; Hurricane, UT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Mountain West Broadcasting, proposing the allotment of Channel 275C3 to Hurricane, Utah, as the community's first local broadcast service. The channel can be allotted to Hurricane without a site restriction at coordinates 37–10–30 NL and 113–17–24 WL.

DATES: Comments must be filed on or before June 14, 1999, and reply comments on or before June 29, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Victor A. Michael, President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–126, adopted April 14, 1999, and released April 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–10909 Filed 4–29–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–123, RM–9502]

FM Broadcasting Services; Commerce and Royston, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comment on a petition filed by Southern Broadcasting of Athens, Inc., licensee of Station WPUP(FM), Channel 279C3, Royston, Georgia, proposing the reallotment of Channel 279C3 from Royston to Commerce, Georgia, and modification of the license for Royston Station WPUP(FM) to specify Commerce as its new community of license. Channel 279C3 can be allotted to Commerce without changing the Royston transmitter site for Station WPUP in compliance with the Commission's minimum distance separation requirements at North Latitude 34°14′13″ and West Longitude 83°16′03″.

DATES: Comments must be filed on or before June 8, 1999, and reply comments on or before June 23, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: James Weitzman, Counsel for Southern Broadcasting of Athens, Inc., 901 15th Street, N.W., Suite 1100, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: J. Bertron Withers, Jr., Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the *Notice of Proposed Rulemaking*, MM Docket 99–123, adopted April 7, 1999, and released April 16, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (room 239), 1919 M Street, N.W., Washington, DC 20554. The complete text of this decision may be also purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, N.W., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is

no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–10910 Filed 4–29–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–127, RM–9521]

Radio Broadcasting Services; Kanarraville, UT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Mountain West Broadcasting proposing the allotment of Channel 268C2 at Kanarraville, Utah, as the community's first local broadcast service. The channel can be allotted to Kanarraville without a site restriction at coordinates 37–32–18 NL and 113–11–06 WL.

DATES: Comments must be filed on or before June 14, 1999, and reply comments on or before June 29, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Victor A. Michael, President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–127, adopted April 14, 1999, and released April 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–10911 Filed 4–29–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–124, RM–9519]

Radio Broadcasting Services; Castle Dale, UT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Mountain West Broadcasting, proposing the allotment of Channel 237C3 to Castle Dale, Utah, as the community's first local broadcast service. The channel can be allotted to Castle Dale without a site restriction at coordinates 39–12–48 NL and 111–01–18 WL.

DATES: Comments must be filed on or before June 14, 1999, and reply comments on or before June 29, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Victor A. Michael, President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–124, adopted April 14, 1999, and released April 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–10912 Filed 4–29–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–128, RM–9520]

Radio Broadcasting Services; Mona,UT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Mountain West Broadcasting proposing the allotment of Channel 225A to Mona, Utah, as the community's first local broadcast service. The channel can be allotted to Mona with a site restriction 4.4 kilometers (2.7 miles) south of the community at coordinates 39–46–39 NL and 111–51–41 WL.

DATES: Comments must be filed on or before June 14, 1999, and reply comments on or before June 29, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Victor A. Michael, President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–128, adopted April 14, 1999, and released April 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch,

Policy and Rules Division,

Mass Media Bureau.

[FR Doc. 99–10913 Filed 4–29–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–129, RM–9541]

Radio Broadcasting Services; Monticello, UT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Mountain West Broadcasting proposing the allotment of Channel 291C1 to Monticello, Utah, as the community's first local broadcast service. The channel can be allotted to Monticello without a site restriction at coordinates 37–52–17 NL and 109–20–32 WL.

DATES: Comments must be filed on or before June 14, 1999, and reply comments on or before June 29, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Victor A. Michael, President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–129, adopted April 14, 1999, and released April 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch,

Policy and Rules Division,

Mass Media Bureau.

[FR Doc. 99–10914 Filed 4–29–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–130, RM–9517]

Radio Broadcasting Services; Wellington, UT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Mountain West Broadcasting proposing the allotment of Channel 221C3 to Wellington, Utah, as the communitys first local broadcast service. The channel can be allotted to Wellington without a site restriction at coordinates 39–32–33 NL and 110–44–05 WL.

DATES: Comments must be filed on or before June 14, 1999, and reply comments on or before June 29, 1999.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Victor A. Michael, President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–130, adopted April 14, 1999, and released April 22, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–10915 Filed 4–29–99; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Docket No. RSPA–98–4868, Notice 1]

RIN 2137—AB15

Gas Gathering Line Definition

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

ACTION: Notice of Extension of Internet Public Discussion Forum and Public Comment Period.

SUMMARY: This notice announces an extension of the Research and Special Programs Administration's Internet discussion forum and the public comment period for regulations concerning gas gathering lines.

DATES: The Internet public discussion forum will be open until May 17, 1999. Submit comments to the docket on or before July 7, 1999.

ADDRESSES: The Internet address for the electronic discussion forum is http://ops.dot.gov/forum. Address written comments to the Dockets Management System, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590–0001. Comments should identify the Docket No. RSPA–98–4868. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed, stamped postcard. Comments may be submitted by e-mail to rules@rspa.dot.gov. The Dockets Management System is located on the Plaza Level of the Department of Transportation's Nassif Building at 400 Seventh Street, SW, Washington, DC. Public dockets may be reviewed in person between the hours of 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. In addition, the public may also review comments by accessing the Docket Management System's home page at http://dms.dot.gov. An electronic copy of any document may be downloaded from the Government Printing Office Electronic Bulletin Board Service at (202) 512–1661.

FOR FURTHER INFORMATION CONTACT: L.E. Herrick, (202) 366–5523, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: On March 11, 1999, we published a notice in the **Federal Register** announcing an Internet public discussion forum on gas gathering for the purposes of pipeline safety regulation (64 FR 12147, March 11, 1999). This Internet discussion forum was scheduled from April 13, 1999 through May 3, 1999. In addition to the Internet discussion forum, RSPA provided the opportunity for interested persons to submit comment to a rulemaking docket. This rulemaking docket was scheduled to close on April 28, 1999.

In 1991, we proposed a definition of gas gathering. A change to the pipeline safety laws in 1992 requires us to revisit that proposal and to consider whether and to what extent we should regulate gathering lines in rural areas. This opportunity for public input will allow us to decide whether and how to modify the regulations. The comments may also inform the process when we consider developing a separate proposal on regulating gas gathering lines in rural areas.

Issued in Washington, DC, on April 27, 1999.

Richard B. Felder,

Associate Administrator for Pipeline Safety, Research and Special Programs Administration.

[FR Doc. 99–10848 Filed 4–29–99; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 990422103–9103–01; I.D. 031099B]

RIN 0648–AL75

Fisheries of the Northeastern United States; Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries; Recreational Measures for the 1999 Fisheries

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

ACTION: Proposed rule; proposed interim measures to implement conservation equivalency in the summer flounder fishery; request for comments.

SUMMARY: NMFS proposes recreational measures for the 1999 summer flounder, scup, and black sea bass fisheries. The implementing regulations for these fisheries require NMFS to publish recreational measures for the upcoming fishing year and to provide an opportunity for public comment. The intent of these measures is to prevent overfishing of the summer flounder, scup, and black sea bass resources. In addition, NMFS proposes interim measures to allow states to implement conservation equivalent measures for the summer flounder recreational fishery.

DATES: Public comments must be received on or before June 1, 1999.

ADDRESSES: Copies of supporting documents used by the Summer Flounder, Scup, and Black Sea Bass Monitoring Committees and of the Environmental Assessment, Regulatory Impact Review, including the Initial Regulatory Flexibility Analysis, are available from: Dan Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904–6790.

Comments on the proposed specifications should be sent to: Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298. Mark on the outside of the envelope, ''Comments - 1999 Summer Flounder, Scup, and Black Sea Bass Recreational Measures.''

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, (978) 281–9326.

SUPPLEMENTARY INFORMATION:

Background

The Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP) outlines the process for specifying annual recreational measures. The FMP has established Monitoring Committees (Committees) for each of the three fisheries comprised of representatives from the Atlantic States Marine Fisheries Commission (Commission), the Mid-Atlantic Fishery Management Council (Council), the New England and South Atlantic Management Councils, and NMFS. The Committees are required to review annually scientific and other relevant information and to recommend measures necessary to achieve the recreational harvest limits for the summer flounder, scup, and black sea bass fisheries. These recommended measures are limited to minimum fish sizes, possession limits, and closed seasons. The Council's Demersal Species Committee and the Commission's Summer Flounder, Scup, and Black Sea Bass Board (Board) then consider the Monitoring Committees' recommendations and any public comment in making their recommendations. The Council reviews the Demersal Committee recommendations, makes its own decision, in turn, and forwards its recommendation to NMFS.

Final specifications for the 1999 summer flounder, scup, and black sea bass fisheries were published on December 31, 1998 (63 FR 72203), and included a coastwide recreational harvest limit of 7.41 million lb (3.361 million kg) for summer flounder; 1.24 million lb (0.562 million kg) for scup; and 3.14 million lb (1.42 million kg) for black sea bass. Recreational measures for 1999 were not included in the final specifications because not enough recreational catch data for 1998 were available for the Committees to use in evaluating the effectiveness of the 1998 measures. Shortly after preliminary data became available, each Committee met to review the data and to recommend measures for the 1998 recreational fisheries. Based on those recommendations, the Council submitted the following recreational measures for consideration.

Summer Flounder

At the November 1998 Monitoring Committee meeting, the Committee recommended that the Council consider a 15–inch (38–cm) minimum fish size, an 8–fish possession limit, and a closure from August 8, 1999, to September 30, 2000. Preliminary recreational landings data for 1998 indicated that a 55–percent reduction in recreational landings would be required in 1999 to avoid exceeding that fishing year's harvest limit of 7.41 million lb (3.36 million kg).

During the time between the Committee meeting in November and the Council/Board meeting in December, additional recreational data for the 1998 fishing year became available. Analysis of these data showed that a 40–percent reduction in fishing effort in 1999 (compared to 1998), instead of the 55–percent reduction discussed at the November 1998 Committee meeting, would be required to keep the recreational landings in 1999 from exceeding the 1999 harvest limit. The Council and Board reviewed this analysis and the Committee's recommendation and recommended a 15–inch (38–cm) minimum fish size, an 8–fish possession limit, and a closed season from September 12, 1999, through May 28, 2000.

In addition, the Council requested that NMFS publish an interim rule that would allow the states to implement alternative measures that are equivalent to the recreational measures NMFS proposes for the summer flounder fishery. The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) states that if a Council finds that interim measures are needed to reduce overfishing for any fishery within its jurisdiction, it may recommend to the Secretary of Commerce the promulgation of interim measures to address the overfishing. The interim action would remain in effect for not more that 180 days after the date of publication, and may be extended by publication in the **Federal Register** for one additional period of not more than 180 days, provided the public has had an opportunity to comment on the interim measure. In the case of a Council recommendation for interim measures, the Council must be actively preparing a fishery management plan, plan amendment, or proposed regulations to address the overfishing on a permanent basis. Interim measures addressing overfishing may be implemented even if they are not sufficient in and of themselves to stop overfishing.

Under this proposed interim rule, states would have the option of implementing alternative measures that would result in the 40–percent reduction that is required to achieve the harvest limit in any year. The states could select a combination of minimum fish sizes, possession limits, and closed seasons. States that wished to implement equivalent measures would have to submit those proposed alternative measures to the Commission's Summer Flounder Technical Committee for approval. The states would be responsible for providing all analyses required to prove that the alternative measures would achieve the required reduction. If the Commission finds that the proposed alternative measures would achieve the required reduction, the state could then implement those alternative measures. Once a state equivalency proposal is approved by the Commission, the Commission would recommend to NMFS that a notification be published to waive the default measure and notify the public of the state's equivalent measures.

It is possible that a state could decide to implement its equivalent measures while the EEZ measures are still in the proposed rule stage of rulemaking. The interim regulations clarify that, if the EEZ measures were modified in an interim final rule, a state would be required to provide additional analysis to the Technical Committee to establish that its current measures achieve the 40–percent reduction.

This proposed interim rule responds to concerns voiced about the inappropriateness of certain coastwide measures for some states. For example, the summer flounder stock migrates north during the summer months, resulting in differences in seasonal availability. This differential in availability impacts on equitable choice of a season. Conservation equivalency will give these states the option of implementing a different closed season, as well as a different possession limit or minimum fish size, if they can prove that the combination of measures will achieve the required reduction. The default measures would be those coastwide measures that are proposed by NMFS as part of the recreational specification process. While the coastwide measures may result in some states reducing the recreational fishery more or less than the Monitoring Committee has recommended, the average coastwide reduction would achieve the harvest limit.

Although permanent measures by the Council are being developed to address overfishing, it will take several months to complete and to implement these measures if they are approved. This proposed interim rule is consistent with the Magnuson-Stevens Act because it would form part of an overall management strategy to end overfishing and rebuild the summer flounder resource while recognizing variations and contingencies in the stock that demand flexibility among the states to achieve the fishing reduction target.

Scup

At the November 1998 Monitoring Committee meeting, the Committee recommended that the Council consider an 8–inch (20.32– cm) minimum fish size, and a 35–fish possession limit. This recommendation would achieve the 1999 harvest limit of 1.24 million lb (0.562 million kg).

The Council and Board reviewed the Committee's recommendation and recommended a 7–inch (17.78–cm) minimum fish size with no possession limit and no closed season for 1999. Because the 1998 harvest limit is not projected to be achieved, and, in fact, projected landings are also below the 1999 harvest limit, the Council and Board believe that the existing 7–inch (17.78–cm) minimum fish size would prevent the recreational catch from exceeding the harvest limit for 1999.

Black Sea Bass

At the November 1998 Monitoring Committee meeting, the Committee recommended that the Council maintain the minimum fish size at 10–inches (25.4–cm). This recommendation would achieve the 1999 harvest limit of 3.14 million lb (1.43 million kg).

The Council and Board reviewed the Committee's recommendation and recommended the 10–inch (25.4–cm) minimum fish size. Because the recreational fishery is not projected to achieve its harvest limit for 1998, neither the Committee nor the Council and Board felt it was necessary to maintain the 2-week closed season implemented in 1998. The Council and Board believe that maintaining the 10–inch (25.4–cm) minimum fish size would prevent the recreational catch exceeding the 1999 harvest limit.

NMFS requests public comments on all of the proposed specification measures. In addition, NMFS requests public comments on the proposed interim rule to allow states to implement measures in the summer flounder fishery that constitute equivalency.

Classification

This proposed rule and proposed interim rule have been determined to be not significant for purposes of E.O. 12866.

The Council prepared an initial regulatory flexibility analysis (IRFA) for this proposed rule, pursuant to 5 U.S.C. 603(a) of the RFA. A copy of this analysis is available from the Council (see ADDRESSES). The IRFA describes the impact this proposed rule, if adopted, would have on small entities. The proposed rule would implement 1999 recreational measures for the summer flounder, scup, and black sea bass fisheries. The proposed interim rule would provide states with the authority to implement conservation measures in state waters that constitute equivalency. The 1999 harvest limit for summer flounder is 7.41 million lb (3.36 million kg)—the same level specified for 1997 and 1998. However, landings in 1997 were 11.86 million lb (5.38 million kg) and projected recreational landings in 1998 are 12.51 million lb (5.68 million kg). Based on the 1998 projection and the upward trend of recreational landings, the more stringent measures proposed in this rule are required to achieve a 40–percent reduction in the recreational fishery and to prevent the harvest limit from being exceeded again. It is probable that proposed management measures would restrict the recreational summer flounder fishery for 1999 and that these measures may cause some decrease in recreational satisfaction (i.e., the proposed closed season).

Staff at the Northeast Fisheries Science Center estimated that 3.25 percent of party/charter trips could be affected by the implementation of the summer flounder preferred measures. In other words, 74,490 angler trips taken aboard party/charter boats in 1997 landed at least one summer flounder that was less than 15 inches (38 cm), or landed more than 8 summer flounder, or landed at least 1 summer flounder during the proposed season.

Assuming angler effort in 1999 would be similar to 1997, party/charter boat revenues associated with these trips can be estimated by multiplying the number of potentially affected trips in 1999 by the average fee ($57.92) paid by anglers. This results in party and charter boat earnings of $4,314,461. Analysis of the vessel trip report (VTR) data indicated that 309 party/charter vessels participated in the summer flounder fishery in 1997. Assuming that the same number of vessels will participate in 1999, the potential impact could be up to $13,963 per vessel ($4,314,461/309 = $13,963). As such, if the regulations proposed under the preferred alternative result in a decrease in the number of recreational fishing trips, on average, each party/charter vessel could lose up to $13,963 or 3.25 percent of their revenue in 1999 compared to 1997. However, losses of this magnitude are not likely to occur given that anglers will continue to have the ability to engage in catch and release fishing for summer flounder, and because of the numerous alternative target species available to anglers. Unfortunately, the lack of data makes it impossible to empirically estimate how sensitive the affected party/charter boat anglers might be to the proposed regulations. The fact that the proposed regulations affect the number and size of the fish that can be kept or landed and do not prohibit anglers from engaging in catch and release fishing, means that overall losses are likely to be lower.

The Steinback and O'Neil (In-press) study suggest that at least some of the potentially affected anglers would not reduce their effort when faced with the landings restrictions proposed under the preferred alternative. Therefore, party/charter revenue losses per boat could range anywhere from no revenue loss up to 3.25 percent, on average, of total expected boat revenue in 1999 (given the assumptions regarding compliance rates and release mortality). Due to some uncertainty regarding the assumptions made to estimate the anticipated impacts of the proposed measures, an IRFA was prepared to analyze potential impacts and to seek public comment on the proposed measures and their impact on small entities.

Alternatives Considered But Rejected by the Council

1. The implementation of the first rejected summer flounder alternative would reduce the possession limit from 8 to 6 fish in addition to closing the fishing season from August 1 to August 31. These measures could potentially reduce effort aboard party/charter boats by up to 8.04 percent assuming angler effort in 1999 would be similar to 1997. In other words, 184,277 (8.04 percent) angler trips taken aboard party/charter boats in 1997 landed at least one summer flounder that was less than 15 inches (38 cm), or landed more than 6 summer flounder, or landed at least one summer flounder during the proposed closed season.

Assuming angler effort in 1999 would be similar to 1997, multiplying the number of potentially affected trips in 1999 (184,277) by the average fee paid by anglers ($57.92) results in associated party/charter boat earnings of $10,673,324. Analysis of VTR data indicated that 309 party/charter vessels participated in the summer flounder fishery in 1997. Assuming that the same number of vessels will participate in 1999, the potential impact could be up to $34,542 per vessel (10,673,324/309). As such, if the regulations proposed under the preferred alternative result in a decrease in the number of recreational fishing trips, on average, each party/charter vessel could lose up to $34,542 or 8.04 percent of their revenue in 1999 compared to 1997. However, losses of this magnitude are not likely to occur

given that anglers will continue to have the ability to engage in catch and release fishing for summer flounder, and because of the numerous alternative target species available to anglers. Unfortunately, very little information is available to empirically estimate how sensitive the affected party/charter boat anglers might be to the proposed regulations. The fact that the proposed regulations affect the number and size of the fish that can be kept or landed and do not prohibit anglers from engaging in catch and release fishing, the overall losses are likely to be somewhat lower. Therefore, party/charter revenue losses per boat could range anywhere from no revenue losses up to 8.04 percent, on average, of total expected boat revenue in 1999 (given the above assumptions regarding compliance rates and release mortality).

2. The implementation of the second rejected summer flounder alternative will reduce the possession limit from 8 to 4 fish in addition to closing the fishing season from January through June. These measures could potentially reduce effort aboard party/charter boats by up to 5.69 percent assuming angler effort in 1999 would be similar to 1997. In other words, 130,415 (5.69 percent) angler trips taken aboard party/charter boats in 1997 landed at least one summer flounder that was less than 15 inches (38 cm), or landed more than 4 summer flounder, or landed at least one summer flounder during the proposed closed season.

Assuming angler effort in 1999 would be similar to 1997, multiplying the number of potentially affected trips in 1999 (130,415) by the average fee paid by anglers ($57.92) results in associated party/charter boat earnings of $7,553,637. Analysis of VTR data indicated that 309 party/charter vessels participated in the summer flounder fishery in 1997. Assuming that the same number of vessels will participate in 1999, the potential impact could be up to $24,445 per vessel (7,553,637/309). As such, if the regulations proposed under the preferred alternative result in a decrease in the number of recreational fishing trips, on average, each party/charter vessel could lose up to $24,445 or 5.69 percent of their revenue in 1999 compared to 1997. However, losses of this magnitude are not likely to occur given that anglers will continue to have the ability to engage in catch and release fishing for summer flounder, and because of the numerous alternative target species available to anglers. Unfortunately, very little information is available to empirically estimate how sensitive the affected party/charter boat anglers might be to the proposed regulations. The fact that the proposed regulations affect the number and size of the fish that can be kept or landed and do not prohibit anglers from engaging in catch and release fishing, the overall losses are likely to be somewhat lower. Therefore, party/charter revenue losses per boat could range anywhere from no revenue losses up to 5.69 percent, on average, of total expected boat revenue in 1999 (given the above assumptions regarding compliance rates and release mortality).

The 1999 scup recreational harvest limit of 1.24 million lb (0.562 million kg) is a 25–percent reduction from the 1998 level of 1.552 million lb (0.70 million kg). However, recreational scup landings for 1998 were projected to be 0.869 million lb (0.39 million kg), well below the 1998 harvest limit. Given the declining trends in both catch and trips, it is unlikely that the 1999 harvest limit would result in a decline in the demand of party/charter boat trips, the only entities shown in Council analysis to be affected by these measures, despite the reduction from the 1998 harvest limit. Like summer flounder, it is likely that anglers would target other species when faced with potential reductions in the amount of scup they can catch. As such, it is unlikely that the 1999 scup harvest limit would have a substantial impact on the number of party/charter fishing trips. The 1999 black sea bass recreational harvest limit of 3.15 million lb (1.43 million kg) is unchanged from the 1998 harvest limit. In 1997, 3.15 million lb (1.43 million kg) of black sea bass were landed and in 1998, 1.146 million lb (0.51 million kg) were projected to be landed. Because the recreational fishery is not anticipated to land the entire harvest limit for 1998, the 1999 harvest limit is not anticipated to alter the demand for party/charter trips, the only entities shown in Council analysis to be affected by these measures. Therefore, it is unlikely that the 1999 black sea bass harvest limit would have a substantial impact on the number of party/charter fishing trips.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 27, 1999.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648–FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 648.102 is revised to read as follows:

§ 648.102 Time restrictions.

Vessels that are not eligible for a moratorium permit under § 648.4(a)(3) and any person subject to the possession limit may fish for summer flounder only from May 29 through September 11. This time period may be adjusted pursuant to the procedures in § 648.100.

3. Section 648.107 is added to subpart G to read as follows:

§ 648.107 Conservation equivalent measures.

(a) States may implement on an annual basis conservation equivalent measures that reduce the recreational catch to the same extent as the annual Federal summer flounder measures specified under § 648.100(c) to achieve the recreational harvest limit in any year. These measures would be a different combination of minimum fish sizes, possession limits, and closed seasons that are the conservation equivalent of those Federal summer flounder measures specified on an annual basis.

(b) A determination of equivalency would be made annually for any state proposing alternative recreational measures by the Summer Flounder Technical Committee of the Commission. Conservation equivalent measures may be implemented without Summer Flounder Technical Committee review, but only if states use the state-specific tables provided by the Commission and maintain a 15–inch (38–cm) TL minimum fish size.

(1) Once a state receives a determination of equivalency from the Summer Flounder Technical Committee, the Commission will recommend to the Regional Administrator that a notification be published in the **Federal Register** to waive the annual Federal summer flounder measures specified under § 648.100(c) and notify vessel permit holders of the equivalent measures approved by the Summer Flounder Technical Committee for landing summer flounder in that state.

(2) States electing not to implement conservation equivalent measures or states that did not receive a determination of equivalency from the Summer Flounder Technical Committee would be required to implement the annual Federal summer flounder

measures specified under § 648.100(c) in accordance with the provisions of the Interstate Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries.

[FR Doc. 99–10900 Filed 4–29–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 041599B]

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery

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

ACTION: Notice of availability of Amendment 1 to the Fishery Management Plan for Atlantic Bluefish (FMP); request for comments.

SUMMARY: NMFS announces that the Mid-Atlantic Fishery Management Council (Council) has submitted Amendment 1 to the Atlantic Bluefish FMP for Secretarial review and is requesting comments from the public. Amendment 1 would establish new management measures to control fishing mortality on Atlantic bluefish (bluefish) while addressing the new requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended by the Sustainable Fisheries Act (SFA). The intent of Amendment 1 is to eliminate overfishing and rebuild the Atlantic bluefish stock.

DATES: Comments must be received on or before June 29, 1999.

ADDRESSES: Send comments to Jon C. Rittgers, Acting Regional Administrator, National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, Massachusetts 01930-3799. Mark the outside of the envelope: ''Comments on Amendment 1 to the Atlantic Bluefish Plan.''

Copies of Amendment 1, including the final environmental impact statement and regulatory impact review, are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 S. New Street, Dover, DE 19904-6790.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Fishery Policy Analyst, 978–281–9104.

SUPPLEMENTARY INFORMATION: Amendment 1 would: revise the overfishing definition for Atlantic bluefish; implement a 9-year stock rebuilding schedule based on a staggered reduction of fishing mortality rate (F); specify a commercial quota with state allocations and a coastwide recreational harvest limit for the first year of the rebuilding schedule; implement permit and reporting requirements for commercial fishermen, dealers, and party/charter boat operators; establish a Bluefish Monitoring Committee; establish an annual adjustment process to meet fishing mortality rate objectives of the FMP; establish a framework adjustment process to change measures such as minimum fish size, gear restrictions, recreational seasons or bag limits, closed areas or commercial seasons; specify a *de minimus* commercial quota for certain states; and identify and describe essential fish habitat (EFH) of bluefish.

This amendment is intended to bring the Atlantic Bluefish FMP into conformance with the Magnuson-Stevens Act as amended by the SFA. The provisions in section 108(a) of the SFA require that Fishery Management Councils either add to or revise the required provisions of any fishery management plan prepared by a Council or the Secretary of Commerce to include the following provisions on: (1) bycatch reports (standardize reporting methods to assess the type and amount of bycatch in a fishery); (2) bycatch measures (develop management measures to minimize bycatch and mortality of bycatch); (3) commercial, recreational, and charter fishing sectors (specify data for each sector); (4) EFH (describe and identify EFH, minimize to the extent practicable adverse impacts from fishing, and identify other actions to encourage the conservation of such habitat); (5) fishing communities (assess in a fishery impact statement the likely effects of measures on fishing communities); (6) and overfishing (specify objective and measurable criteria for identifying whether a fishery is overfished, and include measures to prevent overfishing). Public comment is invited on the adequacy of Amendment 1 in meeting the requirements of section 108(a) of the SFA.

Overfishing Definition

Amendment 1 would revise the overfishing definition so that it is composed of two reference points to bring it into accordance with the new national standards of the Magnuson-Stevens Act, as amended by the SFA. The proposed overfishing definition for bluefish is: Overfishing occurs whenever F is greater than the F threshold = F_{msy} = 0.4; bluefish is overfished when biomass is less than 1/ $2B_{msy}$=118.5 mil lb (53,750 mt). The long-term F target is 90 percent of Fmsy and the B_{target} is B_{msy}. No change to the regulatory text is necessary to change the overfishing definition.

Rebuilding Strategy

An additional requirement of the SFA is that stocks identified as overfished (i.e., stock biomass is less than minimum biomass threshold) must be rebuilt to the level that will produce B_{MSY} in as short a period as possible. The Council and Commission propose to rebuild the bluefish stock to the B_{MSY} level over a 9-year rebuilding period. The 9-year rebuilding schedule would eliminate overfishing and rebuild the stock through a graduated reduction in the F. The current F associated with MSY is F_{MSY}=0.4. In 1997, the F was estimated at F=0.51, so that overfishing was occurring.

For the first 2 years of the rebuilding plan (1999–2000), F would remain at the current level, F=0.51 and then would be reduced to F=0.41 in years 3–5 (2001–2003), and finally to F=0.31 in years 6–9 (2004–2007). During the rebuilding period, the target F for the next fishing year would be set at the level specified in the rate reduction schedule *or* the level estimated for the most recent year, whichever is less. Based on the overfishing definition, target F would continue to be at 90% F_{MSY} **(**F=0.36**)**, once rebuilding is achieved. Amendment 1 proposes that commercial landings quotas and a recreational harvest limit are the chief measures to achieve these goals.

Essential Fish Habitat Designation

The Council identified and described EFH for various stages of the life cycle of bluefish, fishing impacts on EFH, non-fishing threats on EFH, and research recommendations relevant to a better understanding of EFH. The Council intends that the EFH designations for bluefish under this Amendment be reviewed and, if needed, updated at least every 5 years. Amendment 1 would authorize the revision of EFH components of the FMP through the FMP's framework process.

Management Measure Considered for Disapproval

De minimus Status

De minimus has been defined as a situation in which, under existing conditions of the stock and scope of the fishery, conservation and enforcement actions taken by an individual state

would be expected to contribute insignificantly to a coastwide conservation program required by a FMP or amendment. Amendment 1 proposes that any state that has commercial landings less than 0.1 percent of the total coastwide commercial landings in the last preceding year for which data are available would be eligible for *de minimus* status. The *de minimus* status would only apply to the commercial fishery, and any state granted *de minimus* status would be allocated 0.1 percent of the coastwide commercial quota. Further, Amendment 1 proposes that the sum of the allocation to *de minimus* states would be deducted from the coastwide commercial quota before the remainder of the quota is allocated to other states. The proposed measure to establish *de minimus* quota specifications is identical to the measure that NMFS disapproved in Amendment 8 and Amendment 10 to the Fishery Management Plan for Summer Flounder, Scup, and Black Sea Bass.

This measure would require an annual examination of state landings to determine if landings in that state during the preceding year for which data are available were less than 0.1 percent of the overall annual quota. If a state met this criterion, it would be granted *de minimus* status. This provision raises a number of concerns: the burdens of administering this provision could well outweigh its benefits; and lack of any clear obligation on the part of a *de minimus* state to close its fishery (i.e., prohibit landings) once its quota is harvested, could result in overfishing. These concerns will be considered in determining the approvability of this provision.

If *de minimus* status does not, at the very least, require a state to impose landing constraints, the provision may encourage owners of vessels that have not traditionally landed in that state to land amounts of bluefish much greater than they could land in their home port states. This could result in the state's *de minimus* quota being rapidly exceeded and compound the overfishing situation if a *de minimus* state is not required to close its fishery when its *de minimus* quota is harvested.

A proposed rule that would implement Amendment 1 may be published in the **Federal Register** for public comment, following an evaluation of the proposed rule by NMFS under the procedures of the Magnuson-Stevens Act. Public comments on the proposed rule must be received by the end of the comment period on Amendment 1 (see **DATES**) in order to be considered in the decision concerning approval or disapproval of the Amendment. All comments received by June 29, 1999, whether specifically directed to Amendment 1 or the proposed rule, will be considered in the approval/disapproval decision on Amendment 1. Comments received after that date will not be considered in the approval/disapproval decision on Amendment 1.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 26, 1999.

Bruce Morehead,

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

[FR Doc. 99–10903 Filed 4–29–99; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 64, No. 83

Friday, April 30, 1999

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

Commission on 21st Century Production Agriculture; Meeting

AGENCY: Office of the Secretary, DOA.

ACTION: Notice of meeting.

SUMMARY: The U.S. Department of Agriculture (USDA) has established the Commission on 21st Century Production Agriculture. In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (FACA), notice is hereby given of the fifth meeting of the Commission on 21st Century Production Agriculture. The purpose of this meeting is to prepare for the Commission's final report on the effects of the Federal Agriculture Improvement and Reform Act of 1996, plan for public listening sessions to be held in 1999, and any other necessary business. This meeting will be open to the public.

PLACE, DATE, AND TIME OF MEETING: The meeting will be at the Kansas City Airport Marriott Hotel, 775 Brasilia, Kansas City, Missouri, 64153, from 9:00–5:00 CST on May 10, 1999, from 8:30–5:00 CST on May 11, 1999, and from 8:30–2:00 CST on May 12, 1999.

FOR FURTHER INFORMATION CONTACT: Tim Peters (202–720–4860), Assistant Director, Commission on 21st Century Production Agriculture, c/o Office of the Chief Economist, or Keith J. Collins (202–720–5955), Chief Economist, Room 112–A Jamie L. Whitten Federal Building, 1400 Independence Avenue, SW, Washington, DC 20250–3810.

Dated: April 23, 1999.

Keith J. Collins,

Chief Economist.

[FR Doc. 99–10864 Filed 4–29–99; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Commodity Credit Corporation's (CCC) intention to request an extension for and revision to a currently approved information collection in support of the CCC/ Export Credit Guarantee Program (GSM–102) and the CCC/ Intermediate Export Credit Guarantee Program (GSM–103) based on re-estimates.

DATES: Comments on this notice must be received by June 29, 1999 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact L. T. McElvain, Director, Commodity Credit Corporation Operations Division, Foreign Agricultural Service, U.S. Department of Agriculture, AgBox 1035, Washington, DC 20250–1035, telephone (202) 720–6211.

SUPPLEMENTARY INFORMATION:

Title: CCC/Export Credit Guarantee Program (GSM–102) and CCC/ Intermediate Export Credit Guarantee Program (GSM–103).

OMB Number: 0551–0004.

Expiration Date of Approval: September 30, 1999.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The primary objective of the GSM–102 and GSM–103 programs is to expand U.S. agricultural exports by making available export credit guarantees to encourage U.S. private sector financing of foreign purchases of U.S. agricultural commodities on credit terms. These CCC programs are currently available with respect to exporters to more than 25 countries and 12 country regions with more than 1,500 exporters currently eligible to participate. Under 7 CFR Part 1493, exporters are required to submit the following: (1) Information required for program participation as outlined in section 1493.30, (2) export sales information in connection with applying for a payment guarantee under section 1493.40, (3) evidence of export in section 1493.80, (4) notice of default and claims for loss under section 1493.110, and (5) miscellaneous provisions, including assignment of the proceeds and review of the regulations found in section 1493.140. In addition, each exporter and exporter's assignee (U.S. financial institution) must maintain records on all information submitted to CCC and in connection with sales made under the GSM–102 and GSM–103 programs as set forth in section 1493.140. The information collected is used by CCC to manage, plan, evaluate and account for Government resources. The reports and records are required to ensure the proper and judicious use of public funds.

Estimate of Burden: The public reporting burden for these collections is estimated to average 2.62 hours per response.

Respondents: U.S. Exporters of U.S. agricultural commodities, U.S. banks or other financial institutions, producer associations, U.S. export trade associations, and U.S. Government agencies.

Estimated Number of Respondents: 227 per annum.

Estimated Number of Responses per Respondent: 117 per annum.

Estimated Total Annual Burden of Respondents: 5,440.48 hours.

Copies of this information collection can be obtained from Kimberly Chisley, the Agency Information Collection Coordinator, at (202) 720–2568.

Requests for comments: Comments are requested regarding: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to L.T. McElvain, Director, Commodity Credit Corporation Operations Division, Foreign Agricultural Service, U.S. Department of Agriculture, AgBox 1035, Washington, DC 20250–1035.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, DC April 21, 1999.

Timothy J. Galvin,

Acting Administrator, Foreign Agricultural Service and Acting Vice President, Commodity Credit Corporation.

[FR Doc. 99–10812 Filed 4–29–99; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Forest Service

White Pine Creek Project; Kootenai National Forest, Sanders County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA- Forest Service will prepare an Environmental Impact Statement (EIS) for the White Pine Creek Project to disclose the effects of timber harvest, prescribed fire, road management including construction, reconstruction and obliteration, fish habitat improvement, steam channel reconstruction, trailhead parking area improvement, and aspen restoration, in the White Pine and Little Trout Creek drainages located approximately 5 air miles south of Trout Creek, Montana. The purpose and need for action is to: (1) Enhance and maintain vegetative communities within the project area that promote overall forest health. Focus management activities on stands which have high levels of mortality due to root disease and white pine blister rust. Focus on stands that need management activities in order to perpetuate old growth ponderosa pine ecosystems. Create forage openings for big game animals and other wildlife; (2) Maintain habitat for big game, specifically wildlife security; (3) Maintain, enhance and restore hydrologic function and fisheries habitat, within the White Pine Project Area; (4) Maintain or enhance visual resources as seen from critical viewpoints within the Trout Creek community; and (5) Provide a transportation system that maintains road and trail access to meet recreational and other public needs.

The DEIS is expected to be filed with the EPA and available for public review by September, 1999.

DATES: Written comments and suggestions should be received on or before June 1, 1999.

ADDRESSES: Written comments and suggestions concerning the scope of the analysis should be sent to James I. Mershon, District Ranger, Cabinet Ranger District, 2693 Hwy 200, Trout Creek, Montana, 59874.

FOR FURTHER INFORMATION CONTACT: Contact Dave Clay, Interdisciplinary Team Leader, Cabinet Ranger District, Phone: (406) 827–3533.

SUPPLEMENTARY INFORMATION: The decision area contains approximately 40,000 acres within the Kootenai National Forest in Sanders County, Montana. All of the proposed projects are located in the White Pine and Little Trout Creek drainages, which are tributaries to the Clark Fork River, near Trout Creek, Montana. The legal location of the National Forest lands within the decision area are as follows: all or portions of Section 4–5, T22N, R32W; Sections 3–11, 14–24, 27–30, T23N, R31W; Section 1–3, 10–17, 20–29, 31–34, T23N, R32W; Sections 31–33, T24N, R31W; Section 24–26, 35–36, T24N, R32W, Principal Montana Meridian.

The Forest Service proposes to harvest approximately 33,000 hundred cubic feet (equivalent to 15 million board feet, MMBF) of timber through the application of a variety of harvest methods on approximately 2,300 acres of forest land. Approximately 1,200 acres would be logged with a helicopter, 700 acres with a skyline yarder, and 400 acres by a tractor. Silviculture systems include 1,200 acres of regeneration harvest and 1,100 of commercial thinning. Vegetation management also includes approximately 5 acres of aspen regeneration. An estimated 5 miles of new permanent road, 12 miles of new temporary roads and 33 miles of road reconstruction would be needed to access timber harvest areas. All temporary roads would be obliterated following completion of sale activities. The proposal also includes prescribed burning on approximately 1,000 acres to reduce natural fuels and enhance wildlife habitat. An estimated 19 miles of road would be obliterated by the timber purchaser and another 31 miles of road would be obliterated with watershed funding by rehabilitation of stream crossings, recontouring, scarification and seeding. The Forest Service also proposes to improve fish habitat through the placement of instream structures and large woody debris on 4 miles of White Pine Creek, stabilize stream channels in 6.7 miles by placing large woody debris and large rock structures in damaged sections to protect the stream channel and provide fish habitat. Reconstruct the stream channel in 2.7 miles of White Pine Creek and plant riparian vegetation along streamcourses. The watershed and fisheries work would be based on site specific conditions and is contingent on the availability of funding.

Improvement in trailhead parking along the White Pine Creek Road #215 is proposed for both the Reader Gulch trail #749 and the Grays Gulch trail #756. Trailhead work would include providing suitable parking and signing.

Lynx habitat would also be created by small regeneration units in high elevation lodgepole pine stands on approximately 10 acres.

The Kootenai Forest Plan provides guidance for management activities within the potentially affected area through its goals, objectives, standards and guidelines, and management area direction. The proposed projects includes activities in several management areas (MAs): 5, 10, 11, 12, 13, 15, 16, 17, and 19. A portion of the Trout Creek Inventoried Roadless Area #664, is included within the project area. No activities are proposed within this roadless area. This proposal includes 4 openings greater than 40 acres (size range is 60 to 150 acres), to treat and regenerate areas experiencing heavy root disease induced mortality (Regional Forester approval for exceeding the forty acre regeneration harvest would be required prior to signing the Record of Decision); and three Forest Plan project specific amendments for: (1) open road density in MA 12 (big game summer range); (2) removal of snag habitat in MA 10 (big game winter range); and (3) timber harvest in MA 13 (old growth). Forest Plan amendments are allowed when it is determined during project design that the best way to meet the goals of the Forest Plan conflicts with a Forest plan standard (Forest Plan Volume II–20).

White Pine Creek has been designated by the State of Montana as a Water Quality Limited Segment (WQLS), because of stream alterations due to agricultural uses.

Range of Alternatives

The Forest Service will consider a range of alternatives. One of these will be the ''no action'' alternative in which none of the proposed activities will be implemented. Additional alternatives will examine varying levels and locations for the proposed activities to achieve the proposal's purposes, as well as to respond to the issues and other resource values.

The EIS will analyze the direct, indirect, and cumulative environmental effects of the alternatives. Past, present, and projected activities on both private and National Forest lands will be considered. The EIS will disclose the analysis of site-specific mitigation measures, if needed, and their effectiveness.

Preliminary Issues

Tentatively, several preliminary issues of concern have been identified. These issues are briefly described below:

Transportation Systems

The implementation of the proposed action would change the overall transportation system within the White Pine Analysis Area which may affect the public's ability to use traditional access routes.

Visual Resources

Implementation of the proposed action may alter the existing scenic resource within the project area. Even though the proposed action is planned to improve the visuals of the past harvest activities, some members of the public may feel that it will have additional scenic impacts.

Watershed

Past management activities and those associated with the implementation of the Proposed Action may result in increased peak flows and sediment production.

Wildlife

The proposed action could potentially reduce security for wildlife species by constructing new roads in wildlife security areas and the reopening of existing roads.

Old Growth

The implementation of the Proposed Action may have short term effects on old growth characteristics, specifically the snag components of those stands.

Decisions To Be Made

The Kootenai Forest Supervisor will decide the following:

- Whether or not to harvest timber and, if so, identify the selection of, and site-specific location of, appropriate timber management practices (silvicultural prescription, logging system, fuels treatment, and reforestation), road construction/reconstruction necessary to provide access and to achieve other resource objectives, and appropriate mitigation measures.
- Whether or not water and fish rehabilitation projects (including road obliteration) and other project area improvements (including trailhead parking area enlargement and control of noxious weeds, etc.) should be implemented and, if so, to what extent.
- Whether or not wildlife enhancement projects (including prescribed burning) should be implemented and, if so, to what extent.
- Whether road access restrictions or other actions are necessary to meet big game wildlife security needs.
- Whether or not project specific Forest Plan amendments for MA 10, 12 and 13 are necessary to meet the specific purpose and need of this project, and whether those amendments are significant under NFMA.
- What, if any, specific project monitoring requirements would be needed to assure mitigation measures are implemented and effective.

Public Involvement and Scoping

In December of 1998 and April of 1999, preliminary efforts were made to involve the public in looking at management opportunities within the White Pine Creek area. Comments received prior to this notice will be included in the documentation for the EIS. The public is encouraged to take part in the process and is encouraged to visit with Forest Service officials at any time during the analysis and prior to the decision. The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in, or affected by, the proposed action. This input will be used in preparation of the draft and final EIS. The scoping process will include:

- Identifying potential issues.
- Identifying major issues to be analyzed in depth.
- Identify alternatives to the proposed action.
- Explore additional alternatives which will be derived from issues recognized during scoping activities.
- Identify potential environmental effects of this project and alternatives (i.e. direct, indirect, and cumulative effects and connected actions).

Estimated Dates for Filing

While public participation in this analysis is welcome at any time, comments received within 30 days of the publication of this notice will be especially useful in the preparation of the Draft EIS. The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by September, 1999. At that time EPA will publish a Notice of Availability of the draft EIS in the **Federal Register**. The comment period on the draft EIS will be 45 days from the date the EPA publishes the Notice of Availability in the **Federal Register**. It is very important that those interested in the management of this area participate at that time.

The final EIS is scheduled to be completed by January, 2000. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the proposal.

Reviewer's Obligations

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day commend period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the final EIS.

To be most helpful, comments on the draft EIS should be as specific as possible and may address the adequacy of the statement or the merit of the alternatives discussed. Reviewers may wish to refer to the Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Responsible Official

Bob Casteneda Forest, Supervisor, Kootenai National Forest, 1101 US Highway 2 West, Libby, MT 59923 is the Responsible Official. As the Responsible Official he will decide if the proposed project will be implemented. He will document the decision and reasons for the decision in the Record of Decision.

I have delegated the responsibility to prepare the EIS to James I. Mershon, District Ranger, Cabinet Ranger District.

Dated: April 17, 1999.

Bob Castenada,

Forest Supervisor, Kootenai National Forest.

[FR Doc. 99–10808 Filed 4–29–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Change to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Delaware

AGENCY: Natural Resources Conservation Service, Delaware.

ACTION: Notice of availability of proposed changes in Section IV of the FOTG for review and comment.

SUMMARY: It is the intention of NRCS in Delaware to issue the following new and revised conservation practice standards in Section IV of the FOTG: Wetland Creation (Code 658), Field Border (Code 386), Wetland Restoration (Code 657), Shallow Water Area for Wildlife (Code 646), Riparian Herbaceous Cover (Code 390), Conservation Cover (Code 327), Riparian Forest Buffer (Code 391), Residue Management: No Till and Strip Till (Code 329A), Residue Management: Mulch Till (Code 329B), Residue Management: Ridge Till (Code 329C), Conservation Crop Rotation (Code 328).

FOR FURTHER INFORMATION CONTACT: Elesa K. Cottrell, State Conservationist, Natural Resources Conservation Service (NRCS), Suite 101, 1203 College Park Dr., Dover, Delaware 19904–8713, telephone (302) 678–4160. Copies of the practice standards will be made available upon written request.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days, the NRCS in Delaware will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Delaware regarding disposition of those comments and a final determination of change will be made.

Dated: April 20, 1999.

Elesa K. Cottrell,

State Conservationist.

[FR Doc. 99–10811 Filed 4–29–99; 8:45 am]

BILLING CODE 3410–66–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Electronic and Information Technology Access Advisory Committee; Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has established an advisory committee to assist it in developing a proposed rule on accessibility standards for electronic and information technology covered by the Rehabilitation Act Amendments of 1998. This document gives notice of the dates, times, and location of the next meeting of the Electronic and Information Technology Access Advisory Committee (Committee).

DATES: The next meeting of the Committee is scheduled for May 11 and 12, 1999, beginning at 9:30 a.m. and ending at 5:00 p.m. on May 11. On May 12, the Committee will present its final report to the Board beginning at 2:00 p.m. and ending at 4:00 p.m.

ADDRESSES: The meeting on May 11 will be held at 1331 F Street, NW, Washington, DC, in the third floor training room. The presentation of the Committee's final report to the Board will take place at the Grand Hyatt Washington, 1000 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Doug Wakefield, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Telephone number (202) 272–5434 extension 39 (Voice); (202) 272–5449 (TTY). E-mail address: wakefield@access-board.gov. This document is available in alternate formats (cassette tape, Braille, large print, or computer disk) upon request. This document is also available on the Board's Internet Site at http://www.access-board.gov/notices/eitaacmtg.htm.

SUPPLEMENTARY INFORMATION: On September 29, 1998, the Access Board published a notice appointing members to its Electronic and Information Technology Access Advisory Committee (Committee). 63 FR 51891 (September 29, 1998). The Committee will make recommendations to the Access Board on accessibility standards for electronic and information technology covered by the Rehabilitation Act Amendments of 1998. The Committee is composed of representatives of Federal agencies and Federal contractors; the electronic and information technology industry; organizations representing the access needs of individuals with disabilities; and other persons affected by accessibility standards for electronic and information technology.

The Committee has met five times since October 1998. This will be the Committee's last meeting. During the meeting in May, the Committee will finalize its recommendations. The Committee will make a presentation to the Access Board at the Board's regular business meeting on May 12th.

The Committee will meet on the dates and at the locations announced in this notice. The meetings are open to the public. The facilities are accessible to individuals with disabilities. Sign language interpreters, assistive listening systems and real-time transcription will be available.

James J. Raggio,

General Counsel.

[FR Doc. 99–10791 Filed 4–29–99; 8:45 am]

BILLING CODE 8150–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities previously furnished by such agencies.

EFFECTIVE DATE: June 1, 1999.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On February 19, March 5 and 22, 1999, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (64 FR 8291, 10620, 13767 and 13768) of proposed additions to and deletions from the Procurement List:

Additions

The Following Comments Pertain to Line, Multi-Loop, 1670–01–062–6307

Comments were received from the holder of the most recent contract for this multi-loop line. The contract was completed in February 1996. The contractor indicated that it is a small business which is very heavily dependent on Government contracts for this type of item. It also indicated that its business has declined markedly in the past year and competition for business has greatly increased, so any loss of business will have a noticeable impact on the company. The contractor noted that, while the value of contracts for this multi-loop line is not large, the line is one of a family of items which it can produce more efficiently if all the members of the family are available for competitive bidding, as their manufacture requires similar components and processes which allow the contractor to spread its costs out among the members of the family. The contractor also indicated that the nature of the manufacturing process made it unsuitable for blind persons to make the line.

The value of its most recent contract for the line is only a small percentage of the company's total annual sales. This percentage is well below the level which the Committee normally considers to constitute probable severe adverse impact. Even if the contractor's general business situation is taken into account, the Committee does not believe the addition of this multi-loop line to the Procurement List is likely to have a severe adverse impact on the contractor. This item is in fact one of a family of related products. However, there are at least 17 other multi-loop lines procured by this contracting activity. In addition, there are other products that also fit within the same family of products as the multi-loop line. Therefore, the Committee does not believe that it has severely reduced the contractor's ability to efficiently manufacture products in this family of products.

The nonprofit agency designated to produce the line already produces several other multi-loop lines, using people with severe disabilities other than blindness (mainly mental retardation). The agency's production line has been modified to allow people with severe disabilities to produce the lines. The modifications would allow individuals who are blind to produce the lines as well. Consequently, the Committee does not agree with the contractor's contention concerning the suitability of this work for individuals who are blind.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Line, Multi-Loop
1670–01–062–6307
1670–01–062–6311

Meal Kits
8970–01–E59–0239A
8970–01–E59–0240A
8970–01–E59–0241A
8970–01–E59–0242A
8970–01–E59–0243A
8970–01–E59–0244A
8970–01–E59–0245A
8970–01–E59–0239B
8970–01–E59–0240B
8970–01–E59–0241B
8970–01–E59–0242B
8970–01–E59–0243B
8970–01–E59–0244B
8970–01–E59–0239C
8970–01–E59–0240C
8970–01–E59–0241C
8970–01–E59–0242C
(100% of the requirement of the USPFO for Louisiana, New Orleans, Louisiana)

Services

Janitorial/Custodial, MG William Weigel USARC, Edison, New Jersey
Janitorial/Custodial, Wheeling Courthouse, 12th and Chaplin Streets Wheeling, West Virginia

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will not have a severe economic impact on future contractors for the commodities.

3. The action may result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following commodities are hereby deleted from the Procurement List:

Starter Rope, Engine
2990–00–972–7950
2990–00–961–3692

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–10888 Filed 4–29–99; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete commodities previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 1, 1999.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Janitorial/Custodial

INS Detention Center, 1115 N. Imperial Highway, El Centro, CA
NPA: Association for Retarded Citizens—Imperial Valley, El Centro, California

Janitorial/Custodial, Santa Ana Federal Building, 34 Civic Center Plaza, Santa Ana, California
U.S. Customhouse, 300 S. Ferry Street, Terminal Island, California
NPA: Goodwill Industries of Orange County, Santa Ana, California

Security Services

Air Passenger Terminal, Travis Air Force Base, California
NPA: PRIDE Industries, Roseville, California

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will result in authorizing small entities to furnish the commodities to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for deletion from the Procurement List.

The following commodities have been proposed for deletion from the Procurement List:

Pencil, Mechanical

7520–00–164–8950
7520–00–268–9916

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–10889 Filed 4–29–99; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Electronic Commerce Working Group

AGENCIES: National Economic Council, Office of Science and Technology Policy, National Science Foundation and the Department of Commerce.

ACTION: Notice of a public conference.

SUMMARY: Leaders from industry, academia, and government will convene at the U.S. Department of Commerce in the first public conference to discuss methods to measure the impact of the Internet, the World Wide Web and electronic commerce on the US economy and society. This conference, UNDERSTANDING THE DIGITAL ECONOMY—DATA, TOOLS AND RESEARCH, is a direct result of the President's November 1998 directive to analyze the economic implications of the Internet and electronic commerce. Sessions will focus on the state of research on the digital economy and what is needed to monitor its future development.

Further information on the conference schedule, speakers, and registration is posted at: *wwwdigitaleconomy.gov*

DATES: May 25–26, 1999.

TIME: 8:30 a.m. to 5 p.m.

ADDRESSES: The U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230. This program is physically accessible to people with disabilities. Request for sign language interpretation should be submitted no later than May 5, 1999 to Ronald Levin , Room 2815, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230. Seating is limited and registration is on a first come first serve basis.

FOR FURTHER INFORMATION: Ronald Levin, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. (*Ronald—Levin@ita.doc.gov*) 202–482–1678.

Dated: April 26, 1999.

Ronald Levin,

Office of Trade and Economic Analysis.

[FR Doc. 99–10862 Filed 4–29–99; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Census 2000 Partnership and Marketing Program Evaluation (PMPE)

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506 (c) (2) (A)).

DATES: Written comments must be submitted on or before June 29, 1999.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Sherri Norris, Bureau of

the Census, Room BH–120–2, Washington, DC 20233; (301) 457–8081.

SUPPLEMENTARY INFORMATION:

I. Abstract

As part of Census 2000, the Census Bureau is conducting a comprehensive program of evaluations designed to measure how well our programs, operations, and procedures perform. The Census 2000 Partnership and Marketing Program is included in this evaluation program. This evaluation will focus attention on the paid advertising and partnership components.

The promotional advertising strategy will be implemented in three phases. The first will occur in November 1999-January 2000 and is referred to as the Educational Phase. The intent is to familiarize the public with the census and educate them about its purposes. The Educational Phase will include national television, radio, and magazine advertising aimed at the least likely to respond segment of the general public. This phase will also contain extra efforts concentrated on educating four targeted audiences (African Americans, Hispanics, Asians, and American Indians) through television, radio, magazine and newspaper advertising.

The second phase will be launched in January 2000. This is the largest component of the advertising strategy and is known as the Motivational Phase. The advertising will again utilize a variety of media (English and non-English) including national television, local targeted television, local radio, magazines, newspapers, out-of-home advertisements, and the Internet. This phase will address both the general public and targeted populations. It also will include some non-traditional media (e.g., posters in convenience stores). The primary message of the Motivational Phase is to participate in the Census by mailing back a census form. This phase will conclude in April 2000.

The final advertising phase will commence shortly before the Census Bureau begins its Nonresponse Follow-up operation. The advertising messages during this phase will stress the importance of cooperating with personal visit enumerators for those who failed to return a census form. This phase will last until June 2000 and will address both the general public and targeted audiences through radio and television advertising.

The Partnership Program will build partnerships with state, local, and tribal governments, community-based organizations, and the private sector. The Program has both a national and regional focus to develop awareness about Census 2000. On the national level, the Program is designed to implement promotional activities that may be sponsored by national umbrella government and nongovernmental organizations. In addition, the Census Bureau is partnering with Fortune 500 companies to promote the importance of the census through the services and products they provide.

The Census 2000 Partnership and Marketing Program has two goals: (1) To increase the awareness of the census, and (2) to increase mailback response rates, especially among historically undercounted populations. The program combines public awareness, promotion, and outreach activities to generate clear, consistent, repeated messages about the importance of participating in Census 2000.

To evaluate these goals, the Census Bureau plans to hire a contractor to conduct an impact assessment of the marketing and advertising campaign using before and after research design. This design will allow the Census Bureau to measure change in awareness to the decennial census by conducting a survey before the marketing campaign has begun and then again after the campaign has been launched. In all, the contractor will develop three survey instruments implemented in three waves. The contractor will increase the sample in the last wave to perform additional analysis of the Partnership Program. Even though the Partnership evaluation will be based upon the last wave, the questionnaires for waves 1 and 2 will contain partnership-related questions to avoid possible context effects and bias across the different data collections.

The questionnaires will consist of different sections including questions related to: media use, awareness of government agencies and programs, awareness of community agencies and programs, free recall of exposure to the paid advertising, free recall of exposure to partnership-sponsored activities, aided recall about source of information, knowledge and attitudes about the census, aided recall of specific advertising, aided recall of specific partnership activities, and census form receipt, handling, mailback behavior, and demographic information.

The first wave of interviews will be conducted in September-October 1999 before the Educational Phase of advertising is launched. A total of 2500 interviews will be completed nationally. The sample will be drawn so that it is sufficient to yield statistically reliable results for the total population and for the four targeted populations(African Americans, Hispanics, Asians, and American Indians). These interviews will reflect a selected oversampling of the four subpopulations. The second wave of interviews will be conducted in February-mid-March 2000. A total of 2500 interviews will be conducted with similar oversampling. The final wave of interviews will be conducted during April 9–May 9, 2000. This survey will contain the larger number of questions for the assessment of census form mailback behavior and the Partnership Program to measure recall and exposure to partnership-related events and activities. A total of 4000 interviews with oversampling of the four targeted groups will be completed. Both Computer-Assisted Telephone Interviewing (CATI) and personal visit interviewing will be conducted in all three waves. Where valid phone numbers cannot be obtained for a sample case, a personal visit interview will be conducted.

The survey instruments will be modeled after previous Census Bureau surveys of a similar nature. In order to carry out historical comparisons to the 1990 publicity campaign, the instrument will replicate, at least in part, questions from the 1990 Outreach Evaluation Survey.

II. Method of Collection

The collection methodology for all three waves of the Census 2000 Partnership and Marketing Program Evaluation (PMPE) will consist of CATI with follow-up by personal interview using a paper form.

III. Data

OMB Number: Not available.

Form Number: Forthcoming.

Type of Review: Regular submission.

Affected Public: Individuals or households.

Estimated Number of Respondents:

WAVE 1 = 2,500
WAVE 2 = 2,500
WAVE 3 = 4,000
Total = 9,000 respondents

Estimated Time Per Response:

Wave 1

- 15 minutes for the telephone interview with a human operator.
- 20 minutes for the personal follow-up interview completion of a paper questionnaire.

Wave 2

- 15 minutes for the telephone interview with a human operator.
- 20 minutes for the personal follow-up interview completion of a paper questionnaire

Wave 3

- 20 minutes for the telephone interview with a human operator.
- 25 minutes for the personal follow-up interview completion of a paper questionnaire.

Estimated Total Annual Burden Hours:

Wave 1 = 730 hours
Wave 2 = 730 hours
Wave 3 = 1,500 hours
Total = 2,960 annual burden hours

Estimated Total Annual Cost: There is no cost to the respondent other than the time to complete the information requested.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Sections 141 and 193.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have a practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents; including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 20, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–10905 Filed 4–29–99; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews and requests for revocations in part.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with MARCH anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department of Commerce also received requests to revoke three antidumping duty orders in part.

EFFECTIVE DATE: April 30, 1999.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b)(1997), for administrative reviews of various antidumping and countervailing duty orders and findings with MARCH anniversary dates. The Department also received timely requests to revoke in part the antidumping duty orders on Steel Wire Rope from South Korea and Mexico and Fresh Cut Flowers from Colombia.

Initiation of Reviews

In accordance with section 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than MARCH 31, 2000.

	Period to be reviewed
Antidumping Duty Proceedings	
Brazil: Ferrosilicon, A–351–820	3/1/98–2/28/99
Companhia Ferroligas Minas Gerais-Minasligas	
Companhia de Ferro Ligas da Bahia	
Colombia: Fresh Cut Flowers, A–301–602	3/1/98–2/28/99
Abaco Tulipanex de Colombia	
Achalay	
Aga Group	
Agricola la Celestina	
Agricola la Maria	
Agricola Benilda Ltda.	
Agrex de Oriente	
Agricola Acevedo	
Agricola Altiplano	
Agricola Arenales Ltda.	
Agricola Bonanza Ltda.	
Agricola Circasia Ltda.	
Agricola de Los Alisos Ltda.	
Agricola De Occident	
Agricola Del Monte	
Agricola El Cactus S.A.	
Agricola El Castillo S.A.C.I.	
Agricola El Pacayal Ltda.	
Agricola El Redil	
Agricola El Rocio	
Agricola Guali S.A.	
Agricola La Corsaria C.I. Ltda.	
Agricola El Socaire Ltda.	
Agricola La Floresta Ltda.	
Agricola La Montana Ltda.	

	Period to be reviewed
Agricola La Siberia	
Agricola las Cuadras Group	
Agricola las Cuadras Ltda.	
Flores de Hacaritama	
Agricola Malqui Ltda.	
Agricola Megaflor Ltda.	
Agricola Yuldama	
Agrocaribu Ltda.	
Agro de Narino	
Agrodex Group	
Agricola el Retiro Ltda.	
Agrodex Ltda.	
Degaflores Ltda.	
Flores Camino Real Ltda.	
Flores de la Comuna Ltda.	
Flores de las Mercedes	
Flores de los Amigos Ltda.	
Flores de los Arrayanes Ltda.	
Flores de Mayo Ltda.	
Flores del Gallinero Ltda.	
Flores del Potrero Ltda.	
Flores dos Hectareas Ltda.	
Flores de Pueblo Viejo Ltda.	
Flores el Trentino Ltda.	
Flores la Conejera Ltda.	
Flores Manare Ltda.	
Florlinda Ltda.	
Horticola el Triunfo	
Horticola Montecarlo Ltda.	
Inversiones Santa Rosa ARW Ltda.	
Agroindustrial Don Eusebio Ltda. Group	
Agroindustrial Don Eusebio Ltda.	
Celia Flowers	
Passion Flowers	
Primo Flowers	
Temptation Flowers	
Agroindustrial Madonna S.A.	
Agroindustrial Teucali Ltda.	
Agroindustrias de Narino Ltda.	
Agrokoralia Ltda.	
Agromec Ltda.	
Agromonte Ltda.	
Agropecuria Cuernavaca Ltda.	
Agropecuaria la Marcela	
Agropecuaria Mauricio	
Agrorosas	
Agrotabio Kent	
Aguacarga	
Alcala	
Alstroflores Ltda.	
Amoret	
Ancas Ltda.	
Andes Group	
Cultivos Buenavista Ltda.	
Flores de los Andes Ltda.	
Flores Horizonte Ltda.	
Inversiones Penas Blancas Ltda.	
Anselmo Luna Pena (Luna Pena Anselmo)	
A.Q.	
Arboles Azules Ltda.	
Aristizaval Bernal Sonia M. (Flor Y Color)	
Aspen Gardens Ltda.	
Astro Ltda.	
Azulejos Flowers Y Cia Ltda.	
Becerra Castellanos y Cia.	
Blum y Bouquets Ltda.	
Bogota Flowers Ltda.	
Bojaca Group	
Agricola Bojaca	
Universal Flowers	
Flores y Plantas Tropicales	
Flores del Neusa Nove Ltda.	
Tropiflora	

	Period to be reviewed
C.I. Agroindustria Del Rio Frio Ltda.	
Caico Group (Caicedo Group)	
Agrobosque S.A.	
Andalucia S.A.	
Corsorcio Agroindustrial Colombiano S.A. (CAICO)	
Exportaciones Bochica S.A.	
Flores del Cauca S.A.	
Aranjuez S.A.	
Floral Ltda.	
Inversiones Targa Ltda.	
Productos el Zorro	
Via el Rosal	
Cantarrana Group	
Cantarrana Ltda.	
Agricola los Venados Ltda.	
Carcol Ltda.	
Cegalo Flawers (Gamboa Lozano Celmira)	
Cia. Andina De Textiles Ltda, ''Ciatex''	
Ciba Geigy Colombiana S.A. (Flores De Tenjo)	
Cienfuegos Group	
Cienfuegos Ltda.	
Flores la Conchita	
Cigarral Group	
Flores Cigarral	
Flores Tayrona	
Classic	
Claveles Colombianos Group (Clavecol Group)	
Claveles Colombianos Ltda.	
Elegant Flowers Ltda.	
Fantasia Flowers Ltda.	
Splendid Flowers Ltda.	
Sun Flowers Ltda.	
Claveles de los Alpes Ltda.	
Clavelez	
Coexflor	
Coflexpo Ltda.	
Colibri Flowers Ltda.	
Color Explosion	
Combiflor	
Comercializadora Caribbean	
Conflores Ltda.	
Consiflor	
Cota	
Crest D'or	
Crop S.A.	
Crop Floresa S.A.	
Cultiflores Ltda.	
Cultivos El Lago Ltda	
Cultivas El Rosal Ltda.	
Cultivos Guameru	
Cultivos Medellin Ltda.	
Cultivos Miramonte Group	
C.I. Colombiana de Bouquets S.A.	
Cultivos Miramonte S.A.	
Flores Mocari S.A.	
Cultivos Tahami Ltda.	
Cypress Valley	
Daflor Ltda.	
Degaflor	
De Harvaez Baldwin	
De la Pava Guevara E. Hijos Ltda.	
Del Monte	
Del Tropico Ltda.	
Dianticola Colombiana Ltda.	
Disagro	
Diveragricola	
Dynasty Roses Ltda.	
Edir Ltda.	
El Antelio S.A.	
El Dorado	
Elite Flowers (The Elite Flower/Rosen Tantau)	
El Milaro	
El Rancho, S.A.	

	Period to be reviewed
El Tambo	
El Timbul Ltda.	
Enrique Pineres (Pineros Putman Enrique)	
Envy Farms Group	
Envy Farms	
Flores Marandua Ltda.	
Escobar Restrepo Mauricio De Jesus (Florena)	
Euroflora	
Exoticas	
Exotic Flowers	
Exotico	
Expoflora Ltda.	
Exporosas	
Exportadora	
Falcon Farms de Colombia S.A.	
Fantsia Flowers	
Farm Fresh Flowers Group	
Agricola de la Fontana	
Flores de Hunza	
Flores Tibati	
Inversiones Cubivan	
Ferson Trading	
Finca La Paz Llano Grand. (Gyorfi Istvan)	
Flamingo Flowers	
Flexport De Colombia & Cia S.A. C.I.	
Flor Colombiana S.A.	
Flora Ltda.	
Flora Bellisima	
Flora Intercontinental	
Floraday	
Florafresh International	
Floralex Group	
Agricola Los Gaques	
Floralex Ltda.	
Flores El Puente Ltda.	
Florandia Herrera Camacho y Cia.	
Floraterra Group	
Floraterra S.A.	
Flores Casa Blanca S.A.	
Flores Novaterra Ltda.	
Flores San Mateo S.A.	
Siete Flores S.A.	
Floreales Group	
Floreales Ltda.	
Kimbaya	
Florecer Ltda.	
Florenal (Flores el Arenal) Ltda.	
Flores S.A. ''Floresa''	
Flores Abaco S.A.	
Flores Acuarela S.A.	
Flores Agromonte	
Flores Aguila	
Flores Ainsuca Ltda.	
Flores Ainsus	
Flores Alcala Ltda.	
Flores Alfaya Ltda.	
Flores Andinas	
Flores Aurora	
Flores Balu Ltda.	
Flores Bachue Ltda.	
Flores C. Fagua, Ltda.	
Flores Cajibio Ltda.	
Flores Calichana	
Flores Carmel S.A.	
Flores Casablanca	
Flores Catalina, Ltda. (Kathleen FLW)	
Flores Cerezangos	
Flores Chibchala Ltda.	
Flores Colon Ltda.	
Flores Comercial Bellavista Ltda.	
Flores Corinto	
Flores Corola	
Flores de Aposentos Ltda.	

	Period to be reviewed
Flores de Guasca	
Flores de Iztari	
Flores de Memecon/Corinto	
Flores De Nemocon Ltda.	
Flores de la Cuesta	
Flores de la Hacienda	
Flores de la Maria	
Flores de la Montana	
Flores de la Parcelita	
Flores De La Pradera, Ltda.	
Flores de la Vega Ltda.	
Flores de la Vereda	
Flores de la Campo Ltda.	
Flores del Cielo Ltda.	
Flores del Cortijo	
Flores del Lago Ltda.	
Flores de Serrezuela S.A.	
Flores del Rio Group	
Agricola Cardenal S.A.	
Flores del Rio S.A.	
Indigo S.A.	
Flores del Tambo	
Flores de Oriente	
Flores de Suba	
Flores de Suesca Group (Toto Flowers Group)	
Flores de Suesca S.A.	
Toto Flowers	
Flores de Tenjo Ltda.	
Flores Depina Ltda.	
Flores Del Pinar Ltda.	
Flores Del Prado, Ltda.	
Flores Delray S.A.	
Flores Ebenezer Ltda.	
Flores El Chircal Piedrahita Y Mon.	
Flores El Danubia Ltda.	
Flores el Lobo	
Flores el Molino S.A.	
Flores el Rosal Ltda.	
Flores El Talisman Ltda.	
Flores el Talle Ltda.	
Flores El Vino Ltda.	
Flores el Zorro Ltda.	
Flores Envy Farms Ltda.	
Flores Escocia Ltda.	
Flores Estrella Ltda.	
Flores Flamingo Ltda.	
Flores Fusu	
Flores Galia Ltda.	
Flores Generales Ltda.	
Flores Gicor Group	
Flores Gicro Ltda.	
Flores de Colombia	
Flores Gloria	
Flores Guaicata Ltda.	
Flores Hacienda Bejucol	
Flores Internacionales Ltda.	
Flores Juanambu Ltda.	
Flores Juncalito Ltda.	
Flores la Cabanuela	
Flores la Fragancia	
Flores la Gioconda	
Flores la Lucerna	
Flores la Macarena	
Flores la Pampa	
Flores la Union/Gomez Arango & Cia. Group	
Flores la Union/Santana	
Flores las Caicas	
Flores las Mesitas	
Flores Llano Grande Ltda. (Florita)	
Flores los Sauces	
Flores Los Pantanos Ltda.	
Flores Los Rosales Ltda.	
Flores Magara	

	Period to be reviewed
Flores Maria Elisa Ltda.	
Flores Mocari S.A.	
Flores Monserrate Ltda.	
Flores Montecarlo	
Flores Monteverde	
Flores Mountgar Ltda. (Flores Moungar Ltda.)	
Flores Palimana	
Flores Petaluna Ltda.	
Flores Primavera S.A.	
Flores Ramo Ltda.	
Flores Rio Negro Ltda.	
Flores Ruizort Ltda.	
Flores Sagaro	
Flores Saint Valentine	
Flores Sairam Ltda.	
Flores San Andres	
Flores San Carlos	
Flores San Ernesto Ltda.	
Flores Santa Lucia	
Flores San Juan S.A.	
Flores Santa Maria Ltda.	
Flores Santa Fe Ltda.	
Flores Santana	
Flores Sausalito	
Flores Selectas	
Flores Silvestres	
Flores Sindamanoi	
Flores Suasuque	
Flores Tairona Ltda.	
Flores Tecnicas Flortec	
Flores Tejaqs Verdes Ltda.	
Flores Tenerife Ltda.	
Flores Tiba S.A.	
Flores Tocarinda	
Flores Tomine Ltda.	
Flores Tropicales (Happy Candy) Group	
Flores Tropicales Ltda.	
Happy Candy Ltda.	
Mercedes Ltda.	
Rosas Colombianos Ltda.	
Flores Urimaco	
Flores Violette	
Flores Xue S.A.	
Florex Group	
Agricola Guacari S.A.	
Flores Altamira S.A.	
Flores de Exportacion S.A.	
Santa Helena S.A.	
Flores del Salitre Ltda.	
S.B. Talee de Colombia	
Floresa S.A., (Flores De La Yareda)	
Florexpo	
Floricola	
Floricola la Gaitana S.A.	
Floricola la Ramada Ltda.	
Floricultores Asociados Lorena Ltda.	
Florimex Colombia Ltda.	
Florisol	
Florpacifico	
Flor y Color	
Floval	
Flower Factory	
Flowers of the World/Rosa	
Four Seasons	
Fracolsa	
Fresh Flowers	
F. Salazar	
Funza Group	
Flores Alborada	
Flores de Funza.	
Flores del Bosque	
Florexport de Colombia	
FMX Ltda.	

	Period to be reviewed
Gamboa Lozano Celmira (Cegalo Flowers)	
Garden and Flowers Ltda.	
German Ocampo	
German Osario Jaramillo	
Granja	
Green Flowers	
Groex S.A.	
German Osario Jaramillo	
German Osario Jaramillo	
Grupo el Jardin	
Agricola el Jardin Ltda.	
La Marotte S.A.	
Orquideas Acatayma Ltda.	
Guacatay Group	
Agricola Guacatay S.A.	
Jardines Bacata Ltda.	
Agricola Cunday S.A.	
Agricola Ventura Ltda.	
Multiflora C.I.S.A.	
Gypso Flowers	
Hacienda Curubital Ltda.	
Hacienda la Embarrada	
Hacienda Matute	
Hacienda Montecarlo	
Hana/Hisa Group	
Flores Hana Ichi de Colombia Ltda.	
Flores Tokai Hisa	
Happy Flowers Ltda.	
Hernando Monroy	
Hill Crest Gardens	
Holland Flowers Ltda. (Hollan Flowers Ltda.)	
Horticultura de la Sasan	
Horticultura el Molino	
Horticultra Montecarlo	
Hosa Group	
Horticultura de la Sabana S.A.	
HOSA Ltda.	
Innovacion Andina S.A.	
Minispray S.A.	
Prohosa Ltda.	
Hurtado Mejia Ltda.	
Illusion Flowers	
Industria Santa Clara	
Industrial Agricola	
Industrial Terwengel Ltda.	
Industria Santa Clara	
Ingro Ltda.	
Internacional De Flores Ltda.	
Inverfloral Ltda., (Invertlores Ltda.)	
Invernavas Ltda.	
Inverpalmas	
Inversiones Agricolas Ltda.	
Inversiones Agricolas M.T. Ltda.	
Inversiones Bucarelia	
Inversiones Cota	
Inversiones el Bambu Ltda.	
Inversiones Floracol Ltda..	
Inversiones Flores del Alto	
Inversiones Kluar Ltda.	
Inversiones La Bonita	
Inversiones Lasser, Ltda.	
Inversiones Maria Alejandra	
Inversiones Maya	
Inversiones Morcote	
Inversiones Morrosquillo	
Inversiones Nativa, Ltda.	
Inversiones Patxi Ltda.	
Inversiones Playa	
Inversiones & Producciones Tecnica	
Inversiones Rodaz, Ltda.	
Inversiones Santa Rita Ltda.	
Inversiones Silma	
Inversiones Sima	

	Period to be reviewed
Inversiones Supala S.A.	
Inversiones Valley Flowers Ltda.	
Invs. Y Praductos Technicos Ltda.	
Inv. Mejia Landicci y Cia (Inverwel)	
Iturrama S.A.	
Jaime Eduardo Valencia, (Agrabarbo)	
Jardin de Carolina	
Jardines Chuntame Ltda.	
Jardines de America	
Jardines Del Muna	
Jardines Choconta	
Jardines Darpu	
Jardines de Timana	
Jardines Del Valle S.A.	
Jardines La Aurora S. en C.	
Jardines La Florida Ltda.	
Jardines Natalia Ltda.	
Jardines Piracanta	
Jardines Tocarema	
Jose Luis Maldonaldo E. (Luis Maldanada Espincua)	
Jose Visente Celedonio Putman	
J.M. Torres	
J.P. Lizarazo Y Cia	
Karla Flowers	
Kingdom S.A.	
La Colina	
La Embairada	
La Flores Ltda.	
La Floresta	
La Marrotte, S.A.	
La Nueva Rosa, Ltda.	
La Plazoleta Ltda.	
Las Amalias Group	
Las Amalias S.A.	
Pompones Ltda.	
La Fleurette de Colombia Ltda.	
Ramiflora Ltda.	
Las Flores	
Laura Flowers	
L.H.	
Linda Colombiana Ltda.	
Loma Linda	
Lopez Cardona Luis (Colibri Flowers)	
Loreana Flowers	
Los Geranios Ltda.	
Luisa Flowers	
Luna Pena Anselmo	
M. Alejandra	
Mac Flowers Ltda.	
Manjui Ltda.	
Marketing and Trade Company Ltd	
Martinez Zurbuchen Y Cia S en C.	
Mauricio Uribe	
Maxima Group	
Agricola los Arboles S.A.	
Colombian D.C. Flowers	
Polo Flowers	
Rainbow Flowers	
Maxima Farms Inc.	
Mejia Sendoya Y Cia (Vergel)	
Merastec	
Monika Farms, Ltda.	
Monserrate Ltda., Repr. E. Inversiones	
Monte Molino Ltda.	
Monte Verde Bouquet (Monteverde S.A.)	
Monteverde Ltda.	
Morcoto	
Multiflores Ltda.	
Nasino	
Natuflora Ltda./San Martin Bloque B	
Olga Rincon	
Oro Verde Group	
Inversiones Miraflores S.A.	

	Period to be reviewed
Inversiones Oro Verde S.A.	
Otono	
Papagayo Group	
Agricola Papagayo	
Inversiones Calypso S.A.	
Petalos de Colombia Ltda.	
Pinar Guameru	
Pineros Putnam Enrique	
Piracania	
Pisochago Ltda.	
Plantaciones Delta Ltda.	
Plantas S.A.	
Plantas Ornamentales de Colombia	
Prismaflor	
Productos El Rosal, Ltda.	
Proflores Ltda.	
Propagar Plantas S.A.	
Queens Flowers Group	
C.I. Agroindustrial del Rio Frio	
C.I. Flora Nova Ltda.	
C.I. Pardo Carrizosa Navas y Cia. S.A.	
Cultivos Generales Ltda.	
Flores Atlas Ltda.	
Flores Calima S.A.	
Flores Canelon Ltda.	
Flores De Bojaca Ltda.	
Flores Del Cacique	
Flores Del Hato	
Flores El Aljibe S.A.	
Flores El Cipres Ltda.	
Flores El Pino Ltda.	
Flores El Tandil Ltda.	
Flores El Trigal S.A.	
Flores Jayvana Ltda.	
Flores La Mana S.A.	
Flores La Valvanera Ltda.	
Flores Las Acacias Ltda.	
Flores Ubate Ltda.	
Jardines De Chia Ltda.	
Jardines Del Rosal Ltda.	
Jardines Fredonia Ltda.	
Florval S.A.	
M.G. Consultores Ltda.	
Mountain Roses S.A.	
Quality Flowers S.A.	
Queens Flowers de Colombia Ltda.	
Reme Salamanca	
Rosa Bella	
Rosaflor	
Rosales de Colombia Ltda.	
Rosales de Suba Ltda.	
Rosalinda Ltda.	
Rosamina	
Rosas Del Pinar Ltda.	
Rosas El Juncal Ltda.	
Rosas Sauzalito Ltda.	
Rosas Sabanilla Group	
Flores la Colmena Ltda.	
Rosas Sabanilla Ltda.	
Inversiones la Serena	
Agricola la Capilla	
Rosas Tesalia	
Rosas Y Flores Del Tropico Ltda. (Rosas Y Jardines Del Tropico Ltda.)	
Rosas y Jardines	
Rose	
Roses De Colombia, Ltda.	
Roses Y Flora Ltda.	
Rosex Ltda.	
Rosicler Ltda.	
Sabana Group	
Flores de la Sabana S.A.	
Roselandia S.A.	
San Ernesto	

	Period to be reviewed
San Flor Y cia S en C	
San Valentine	
Sandra Patricia Rey S	
Sansa Flowers	
Santa Rosa Group	
Flores Santa Rosa Ltda.	
Floricola la Ramada Ltda.	
Santa Monica Flowers Ltda.	
Santana Flowers Group	
Santana Flowers	
Hacienda Curibital Ltda.	
Inversiones Istra Ltda.	
Sarena	
Select Pro	
Senda Brava Ltda.	
Shasta Flowers y Compania Ltda.	
Shila	
Siempreviva	
Soagro Group	
Agricola el Mortino Ltda.	
Flores Aguaclara Ltda.	
Flores del Monte Ltda.	
Flores la Estancia	
Jaramillo y Daza	
Sociedad Agricola El Jardin Ltda.	
Solo Flores	
Solor Flores Ltda.	
Sonia Alvrez De Buchelli	
Splendor Flowers Ltda.	
Starlight	
Suata Plants Ltda.	
Sunbelt Florals	
Sunset Farms, Ltda.	
Super Rosas Ltda.	
Super Rosas Ltda.	
Superflora Ltda.	
Susca	
Sweet Farms	
Sweet Flowers Ltda.	
Tag Ltda.	
Taganga Ltda.	
Tara Flowers	
Technica Agricola Ganadera TAG Ltda.	
Tecnica Agricola Tag Ltda.	
Techniflores S.A.	
Tejeiro (Tegeiro) Repr. Internales. Ltda. (Terinter Ltd)	
Terraflor Ltda.	
The Beall Company	
The Rose	
Tikiya Flowers	
Tinzuque Group	
Tinzuque Ltda.	
Catu S.A.	
Tomino	
Tropical Garden	
Tuchany Group	
Tuchany S.A.	
Flores Sibate	
Flores Tikaya	
Flores Munya	
Turflor S.A.	
Uniflor Ltda.	
Universal De Flores Ltda.	
Valencia Botero Jaime E. (Agrosarbo)	
Vegaflor	
Velez de Monchaux Group	
Velez de Monchaux e Hijos y Cia S. en C.	
Agroteusa	
Victoria Flowers	
Villa Cultivos Ltda.	
Villa Diana	
Vuelven Ltda.	
Zipa Flowers	

	Period to be reviewed
The following exporters/growers have requested revocation from the antidumping duty order:	
Queens Flowers Group	
C.I. Agroindustrial del Rio Frio	
C.I. Flora Nova Ltda.	
C.I. Pardo Carrizosa Navas Cia. S.A.	
Cultivos Generales Ltda.	
Flores Atlas Ltda.	
Flores Calima S.A.	
Flores Canelon Ltda.	
Flores De Bojaca Ltda.	
Flores Del Cacique	
Flores Del Hato	
Flores El Aljibe S.A.	
Flores El Cipres Ltda.	
Flores El Pino Ltda.	
Flores El Tandil Ltda.	
Flores El Trigal S.A.	
Flores Jayvana Ltda.	
Flores La Mana S.A.	
Flores La Valvanera Ltda.	
Flores Las Acacias Ltda.	
Flores Ubate Ltda.	
Jardines De Chia Ltda.	
Jardines Del Rosal Ltda.	
Jardines Fredonia Ltda.	
Florval S.A.	
M.G. Consultores Ltda.	
Mountain Roses S.A.	
Quality Flowers S.A.	
Queens Flowers de Colombia Ltda.	
Ecuador: Fresh Cut Flowers, A–331–602	3/1/98–2/28/99
Florisol Cia. Ltda.	
Argicola Flores La Antonia	
Agroflora C. Ltda.	
Denmar	
Ecuarosas Cia. Ltda.	
Flores De Alcobendas	
Flores De Cayambe	
Flores De La Montana	
Flores Del Ecuador, Florestrade, Quinche, Puembo, Ibsarra, Picincha	
Florinsa (Cotopaxi)	
Florinsa (Tabacundo)	
Guaisa Farms	
Hilsea	
Inlandes	
Inversions Floricolas	
Jardine de Cayambe	
Mudiflor	
Rosas Bemani	
Rosas del Educator	
Velvet	
Flores del Qinche, S.A.	
Agricola Landwork	
Agritab	
Agroindustrial Espialmor	
Armizo	
Claveles de la Montana	
Empagri	
Florequisa	
Flores Barragan-Rodriguez	
Flores Mitad del Mundo	
Floricultura Ecuaclavel	
Guala Import	
Illiniza Flowers	
Nerita Flowers	
San Alfonso	
Flores del Quinche	
Flores la Antonia	
Florisol	
Plantaciones Malima	
Americflowers	
Arco Valeno	
Biocare Limited	

	Period to be reviewed
Colorsfromtheworld	
Comedinsa	
Comercializadora Agricola	
Caribe	
Comprinz	
Ecoflowers	
Ecuaflor	
Ecuaplanet Trading	
Ecuaplanta	
Florimex Verwaltung GMBH	
Incaflor	
Maximafarms Ecuador	
Miliflowers	
Nevado Naranjo Ecuador	
Noeliaflowers	
Panorama Roses	
Quito Inor Flowers	
Trevis	
U.S. Floral Corp.	
Flores del Cotopaxi, La Clenoga	
Flores del Ecuador	
Armizo Cia. Ltda.	
Germany: Lead & Bismuth Steel, A–428–811	3/1/98–2/28/99
Saarstahl A.G. i.K.	
Mexico: Steel Wire Rope, A–201–806	3/1/98–2/28/99
Aceros Camesa, S.A. de C.V.	
South Korea: Steel Wire Rope, A–580–811	3/1/98–2/28/99
Boo Kook Corporation	
Dae Heung Industrial Co.	
Dae Kyung Metal	
Dong-Il Steel Mfg. Co., Ltd.	
Dong Young	
Hanboo Wire Rope, Inc.	
Jinyang Wire Rope, Inc.	
Korea Sangsa Co.	
Kumho Wire Rope Mfg. Co., Ltd.	
Kwangshin Rope	
Myung Jin Co.	
Seo Hae Industrial	
Sungsan Special Steel Processing	
Yeonsin Metal	
The People's Republic of China: Ferrosilicon,* A–570–819	3/1/98–2/28/99
Zunyi Ferroalloy Imp. & Exp. Company	
The United Kingdom: Lead & Bismuth Steel, A–412–810	3/1/98–2/28/99
British Steel Engineering Steels, Ltd.	
Countervailing Duty Proceedings	
Germany: Lead & Bismuth Steel, C–428–812	1/1/98–12/31/98
Saarstahl A.G.i.K	
Turkey: Welded Carbon Steel Line Pipe, C–489–502	1/1/98–12/31/98
Borusan Boru Birlesik Fabrikalari	
The United Kingdom: Lead & Bismuth Steel, C–412–811	1/1/98–12/31/98
British Steel Engineering Steels Ltd.	
Suspension Agreements	
None.	

*If one of the above named companies does not qualify for a separate rate, all other exporters of ferrosilicon from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under section 351.211 or a determination under section 351.218(d) (sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

For transition orders defined in section 751(c)(6) of the Act, the Secretary will apply paragraph (j)(1) of this section to any administrative review initiated in 1998 (19 CFR 351.213(j)(1–2)).

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: April 22, 1999.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Group II, AD/CVD Enforcement.

[FR Doc. 99–11014 Filed 4–29–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042699B]

Endangered Species; Permits

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

ACTION: Receipt of applications to modify permits (1056, 1118); issuance of a permit (1189); and modifications to an existing permit (1119).

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement:

NMFS has received applications for modifications to existing permits from NMFS Northwest Fisheries Science Center in Seattle, WA (NWFSC)(1056) and U.S. Fish and Wildlife Service in Leavenworth, WA (FWS)(1118); NMFS has issued a permit to Dr. James Kirk, of the Corps of Engineers Waterways Experiment Station (COE-WES) (1189); and NMFS has issued modifications to a scientific research permit held by the U.S. Fish and Wildlife Service (FWS) (1119).

DATES: Written comments or requests for a public hearing on the new modification requests must be received on or before June 1, 1999.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

For permits 1056, 1118, 1119: Protected Resources Division, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

For permit 1189: Office of Protected Resources, Endangered Species Division, F/PR3, 1315 East-West Highway, Silver Spring, MD 20910 (301–713–1401).

All documents may also be reviewed by appointment in the Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401).

FOR FURTHER INFORMATION CONTACT:

For permits 1056: Leslie Schaeffer, Portland, OR (503–230–5433).

For permits 1118, 1119: Tom Lichatowich, Portland, OR (503–230–5438).

For permit 1189: Terri Jordan, Silver Spring, MD (301–713–1401).

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) Are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–227).

Those individuals requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in this Notice

The following species and evolutionarily significant units (ESU's) are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): Snake River (SnR) spring/summer, upper Columbia River (UCR) spring.

Steelhead trout (*Oncorhynchus mykiss*): UCR.

Shortnose sturgeon (*Acipenser brevirostrum*).

Modification Requests Received

NWFSC requests a modification to scientific research permit 1056. Permit 1056 authorizes NWFSC annual direct takes of juvenile, threatened, naturally produced and artificially propagated, SnR spring/summer chinook salmon associated with studies designed to monitor wild salmon smolt migration timing, genetic change, and population structure over time. For the modification, NWFSC requests an increase in the annual take of juvenile, threatened, naturally produced, SnR spring/summer chinook salmon and an additional take of adult, threatened, SnR spring/summer chinook salmon carcasses associated with the research. The additional take is requested to determine the importance of salmon carcasses (marine derived nutrients) on the growth, production, and survival of wild juvenile Snake River chinook salmon. NWFSC also requests that an additional capture method, rotary screw traps, be used to collect juvenile fish. ESA-listed juvenile fish are proposed to be lethally taken from additional sites except in low abundance years, when lethal take will be suspended. Tissue samples will be collected from ESA-listed adult, naturally deceased (post-spawning), salmon carcasses found along stream banks, or in the event that few carcasses of naturally spawning fish are located, samples will be taken from carcasses obtained from nearby hatcheries following spawning. The modification is requested to be valid for the duration of the permit, which expires on January 31, 2003.

FWS requests a modification to scientific research/enhancement permit 1118. Permit 1118 authorizes FWS annual direct takes of adult and juvenile, endangered, naturally produced and artificially propagated, UCR steelhead associated with an enhancement program at Winthrop Hatchery on the Methow River. Incidental takes of ESA-listed species resulting from hatchery produced fish releases are also authorized by the permit. For the modification, FWS requests an annual incidental take of adult and juvenile, endangered, UCR spring chinook salmon associated with the program. FWS has provided a revised conservation plan designed to minimize and mitigate the potential incidental take of the ESA-listed species. The modification is requested to be valid for the duration of the permit, which expires on May 31, 2003.

Permits and Modifications Issued

Notice was published on February 4, 1999 (64 FR 5640), that an application had been filed by the U.S. Fish and Wildlife Service (FWS), for a modification to permit 1119. Permit 1119 authorizes annual takes of juvenile, endangered, naturally produced and artificially propagated, UCR steelhead associated with research studies. For Modification 1, FWS is authorized an increase in annual takes of adult and juvenile, endangered,

naturally produced and artificially propagated, UCR steelhead associated with two new studies, Study 3 and Study 4. Study 3 involves routine spawning ground surveys in the Entiat River Basin designed to estimate the numbers of adult salmonids utilizing the basin. Study 4 is designed to evaluate the feasibility of restoring endangered UCR steelhead above barriers in Icicle Creek, a tributary to the Wenatchee River. Modification 1 was issued on April 22, 1999, and is valid for the duration of the permit, which expires on December 31, 2002.

Notice was published on January 4, 1999 (64 FR 148), that COE-WES applied for a 3-year permit to take and conduct research on endangered shortnose sturgeon to characterize the Ogeechee River system shortnose sturgeon population size, age, structure and growth; document seasonal movement and habitat preferences; identify, if possible, spawning and rearing sites and develop population models to evaluate anthropogenic effects, population trends, and define a recovering or steady-state population. Permit 1189 was issued on April 22, 1999, and expires on December 31, 2002.

Dated: April 26, 1999.

Margaret Lorenz,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–10902 Filed 4–29–99; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Cambodia

April 26, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: May 3, 1999.

FOR FURTHER INFORMATION CONTACT: Roy Unger, 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.

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 current limits for certain categories are being increased for carryforward.

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 63 FR 71096, published on December 23, 1998). Also see 64 FR 6050, published on February 8, 1999.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 26, 1999.

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 February 1, 1999, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Cambodia and exported during the twelve-month period which began on January 1, 1999 and extends through December 31, 1999.

Effective on May 3, 1999, you are directed to increase the current limits for the following categories, as provided for under the terms of the current bilateral textile agreement between the Governments of the United States and Cambodia:

Category	Adjusted twelve-month limit [1]
334/634	180,200 dozen.
335/635	68,900 dozen.
338/339	2,650,000 dozen.
340/640	795,000 dozen.
345	99,640 dozen.
347/348/647/648	3,180,000 dozen.
352/652	636,000 dozen.
438	95,400 dozen.
445/446	116,600 dozen.
638/639	954,000 dozen.
645/646	265,000 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1998.

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. 99–10827 Filed 4–29–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in Korea

April 26, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 3, 1999.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, 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.

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 current limits for certain categories are being adjusted for carryforward used in 1998.

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 63 FR 71096, published on December 23, 1998). Also see 63 FR 56005, published on October 20, 1998.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 26, 1999.

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 October 14, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Korea and exported during the period January 1, 1999 through December 31, 1999.

Effective on May 3, 1999, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted limit [1]
Group I	
200–223, 224–V [2], 224–O [3], 225, 226, 227, 300–326, 360–363, 369pt. [4], 400–414, 464, 469pt. [5], 600–629, 666, 669–P [6], 669pt. [7], and 670–O [8], as a group.	392,632,795 square meters equivalent.
Sublevels within Group II	
338/339	1,266,505 dozen.
340	671,544 dozen of which not more than 341,957 dozen shall be in Category 340–D [9].
342/642	229,041 dozen.
347/348	473,217 dozen.
435	35,353 dozen.
633/634/635	1,342,874 dozen of which not more than 154,735 dozen shall be in Category 633 and not more than 576,650 dozen shall be in Category 635.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1998.

[2] Category 224–V: only HTS numbers 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36.0020.

[3] Category 224–O: all remaining HTS numbers in Category 224.

[4] Category 369pt.: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3016, 4202.92.6091, 6307.90.9905, (Category 369–L); 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020 and 6406.10.7700.

[5] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010 and 6406.10.9020.

[6] Category 669–P: only HTS numbers 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020 and 6305.39.0000.

[7] Category 669pt.: all HTS numbers except 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020, 6305.39.0000 (Category 669–P); 5601.10.2000, 5601.22.0090, 5607.49.3000, 5607.50.4000 and 6406.10.9040.

[8] Category 670–O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3031, 4202.92.9026 and 6307.90.9907 (Category 670–L).

[9] Category 340–D: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030.

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. 99–10829 Filed 4–29–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Restraint Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Thailand

April 21, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: May 4, 1999.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, 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 reopenings, call (202) 482–3715.

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 current limits for certain categories are being reduced for carryforward used in 1998.

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 63 FR 71096, published on December 23, 1998). Also see 63 FR 58369, published on October 30, 1998.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 21, 1999.

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 October 27, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Thailand and exported during the period which began on January 1, 1999 and extends through December 31, 1999.

Effective on May 4, 1999, you are directed to reduce the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
200	1,282,774 kilograms.
363	21,589,272 numbers.
369–D [2]	237,200 kilograms.
603	2,301,579 kilograms.
619	7,465,454 square meters.
620	7,357,099 square meters.
Sublevels in Group II	
338/339	1,932,196 dozen.
345	327,069 dozen.
347/348/847	859,352 dozen.
638/639	2,269,173 dozen.
647/648	1,202,106 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1998.

[2] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

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,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–10828 Filed 4–29–99; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Army

Announcement of Intent To Grant an Exclusive License for a U.S. Army-Owned Patent

AGENCY: U.S. Army, Picatinny Arsenal, New Jersey.

ACTION: Notice.

SUMMARY: The Department of the Army announces that, unless there is objection, in sixty days it will grant an Exclusive license for European and Near Eastern countries to Reinmetall Industries AG, Dusseldorf, Germany, on U.S. Army Patent 5,328,130 issued on July 12, 1994, entitled ''Stabilizer For A Cannon Projectile'' by Stewart Gilman and Anthony Farina, Army docket no. DAR–49–91, together with all foreign counterpart patents or patent applications.

FOR FURTHER INFORMATION CONTACT: Mr. John Moran, Chief, Intellectual Property Law Division, AMSTA–AR–GCL, U.S. Army, TACOM–ARDEC, Picatinny Arsenal, NJ 07806–5000, telephone: (973) 724–6590.

SUPPLEMENTARY INFORMATION: Written objections must be filed within 60 days from publication date of this notice in the **Federal Register.**

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–10860 Filed 4–29–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Announcement of Intent To Grant an Exclusive License for a U.S. Army-Owned Patent

AGENCY: U.S. Army, Picatinny Arsenal, New Jersey.

ACTION: Notice.

SUMMARY: The Department of the Army announces that, unless there is objection, in sixty days it will grant an Exclusive license in European and Near Eastern countries to Rheinmetall Industries, AG, Dusseldorf, Germany, on U.S. Army Patent 5,070,791, issued on December 10, 1991 entitled ''Projectile Tail Cone'' by John J. Dineen, Winfred T. Watson, and Gary Fleming, Army docket no. DAR–1–88.

FOR FURTHER INFORMATION CONTACT: Mr. John Moran, Chief, Intellectual Property Law Division, AMSTA–AR–GCL, U.S. Army, TACOM–ARDEC, Picatinny Arsenal, NJ 07806–5000, telephone: (973) 724–6590.

SUPPLEMENTARY INFORMATION: Written objections must be filed within 60 days from the publication date of this notice in the **Federal Register.**

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–10861 Filed 4–29–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Vaccine Against Gram Negative Bacteria

AGENCY: U.S. Army Medical Research and Material Command, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, and 404.7, announcement is made of the availability for licensing of U.S. Patent Application Serial Number 08/749,592 filed November 15, 1996, and entitled ''Vaccine Against Gram Negative Bacteria.'' This patent has been assigned to the United States Government as represented by the Secretary of the Army.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: MCMR–JA, Fort Detrick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: Mr. Charles H. Harris, Patent Attorney, (301) 619–2065 or telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: The invention describes a mucosal vaccine and methods of producing a vaccine or vaccines that can be used to immunize an individual against meningococcal disease (infections with Neisseria) based on native outer membrane vesicles (NOMV) prepared from a genetically engineered vaccine strain. In an extended application, methods for extending this vaccine approach to other Gram negative bacteria such as Shigella, Brucella, Pseudomonas, Excherichia coli, and Haemophilus are also described.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–10858 Filed 4–29–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Withdrawal of Preparation of a Draft Environmental Impact Statement for the Baltimore Metropolitan Water Resources Feasibility Study—Deep Run and Tiber-Hudson Watersheds, Howard County, MD

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of withdrawal.

SUMMARY: The U.S. Army Corps of Engineers, Baltimore District, is withdrawing its intent to prepare a Draft Environmental Impact Statement (DEIS) for environmental restoration in the Deep Run and Tiber-Hudson watersheds, Howard County, Maryland. The Corps environmental analyses have not identified any significant impacts associated with the proposed action, therefore, intent to prepare a DEIS is hereby terminated. The Corps is preparing a draft Environmental Assessment (EA) for the proposed environmental restoration. The draft EA will evaluate environmental effects of restoring riverine, wetland, and riparian habitat at seven sites in the Deep Run watershed and five sites in the Tiber-Hudson watershed. Howard County is the cost-sharing partner and is participating in the feasibility study and draft EA development. The goal of this project is to provide site specific restoration measures to enhance, preserve, and restore portions of the watershed that have been degraded by urban development pressures. Formulation of the restoration measures focuses on examining existing conditions and determining the feasibility of restoring portions of degraded ecosystem structure, function, and dynamic processes to a less degraded condition.

FOR FURTHER INFORMATION CONTACT: Questions about the termination of the DEIS can be addressed to Ms. Kathryn J. Conant, Study Manager, Baltimore District, U.S. Army Corps of Engineers, ATTN: CENAB–PL–P, P.O. Box 1715, Baltimore, Maryland 21203–1715, telephone (410) 962–5175. E-mail address: kathryn.j.conant@usace.army.mil.

SUPPLEMENTARY INFORMATION: A DEIS was in the process of being prepared by the Corps. During the National Environmental Policy Act (NEPA) process, it became apparent that the set of alternatives chosen as the final restoration plan did not produce any significant, long-term, or adverse

impacts to the environment or its surroundings. Therefore, the DEIS process has been terminated. A draft feasibility report and draft EA have been prepared, and will be available for public review and comment.

Dated: April 20, 1999.

Robert W. Lindner,

Chief, Planning Division.

[FR Doc. 99–10857 Filed 4–29–99; 8:45 am]

BILLING CODE 3710–41–M

DEPARTMENT OF DEFENSE

Department of the Army Corps of Engineers

Draft Environmental Impact Statement For Proposed Open-Water Placement of Dredged Material At Site 104 Queen Anne's County, Maryland

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Extension of comment period (July 1, 1999).

SUMMARY: Reference previous **Federal Register** notice, Volume 64, Number 69, page 17644, dated April 12, 1999, announcing the Baltimore District's extension of comment period to June 1, 1999. The Baltimore District is now extending the public comment period for an additional 30 days (July 1, 1999). This is based on the District's preparation of additional information on sediment quality and nutrients which will be distributed by May 15, 1999.

DATES: Comments must be submitted on or before July 1, 1999 to be evaluated and considered in the final environmental impact statement.

ADDRESSES: Questions, comments, or requests for copies of the Draft Environmental Impact Statement should be directed to Mr. Wesley E. Coleman, Jr. at the Corps of Engineers, Baltimore District (ATTN: CENAB–PL–P), P.O. Box 1715, Baltimore, MD 21203–1715. Or e-mail wesley.e.coleman@usace.army.mil

FOR FURTHER INFORMATION CONTACT: Mr. Wesley E. Coleman, Jr. at facsimile (410) 962–4698 or 1–800–295–1610.

SUPPLEMENTARY INFORMATION: Additional information on sediment quality and nutrients will be distributed by May 15, 1999. This information will be placed in the libraries listed below and will be distributed to parties on the Site 104 mailing list.

A Notice of Availability (NOA) and a summary of the proposed action was published in the **Federal Register** (64 FR 9480) on February 26, 1999. The U.S. Army Corps of Engineers, Baltimore District is evaluating the potential use of Site 104 as an open-water placement area. Site 104 is located in the Chesapeake Bay one-half mile north of the Chesapeake Bay Bridge and one mile west of Kent Island. Open-water placement is proposed for approximately 18 million cubic yards of dredged material from the mainstem Chesapeake Bay channels leading to the part of Baltimore. The Maryland Port Administration has recommended the use of Site 104 for open-water placement of clean sediment beginning in 1999. No decision has been made to use the site. The Baltimore District will analyze and incorporate all public comments on this Draft Environmental Impact Statement before making a final decision.

The DEIS and associated technical appendices are available at the following area libraries: Anne Arundel County Public Library, North County Branch, 1010 Eastway Drive, Glen Burnie, MD 21060; Queen Anne's County Free Library, 121 South Commerce Street, Centreville, MD 21617; Kent County Public Library, 408 High Street, Chestertown, MD 21620; Frederick Douglas Library. University of MD, Eastern Shore, Backbone Road, Princess Anne, MD 21853; Miller Library, Washington College, 300 Washington Avenue, Chestertown, MD 21620; MD State Law Library, Court of Appeals Building, 361 Rowe Boulevard, Annapolis, MD 21401; Queen Anne's County Public Library, Kent Island Branch, 200 Library Circle, Stevensville, MD 21666; Annapolis Library, 1410 West Street Annapolis, MD 21401; Broadneck Library, 1275 Green Holly Drive, Annapolis, MD 21401; Reference Library, State Department of Legislation, 90 State Circle, Annapolis, MD 21401.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–10859 Filed 4–29–99; 8:45 am]

BILLING CODE 3710–41–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Open Meeting of the Board of Advisors to the Superindent, Naval Postgraduate School, Monterey, CA

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 5 USC App.2), notice is hereby given that the Board of Advisors to the Superintendent, Naval Postgraduate School, Monterey, California will meet. All sessions will be open to the public.

DATES: The meeting will be on 2–3 June 1999, 8:30 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held in Hermann Hall (Building 220) at the Naval Postgraduate School, 1 University Circle, Monterey, CA 93943.

FOR FURTHER INFORMATION CONTACT: Ms. Jaye Panza, Naval Postgraduate School, Monterey, CA 93943–5001, telephone (831) 656–2514.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to elicit the advice of the board on the Navy's Postgraduate Education Program. The board examines the effectiveness with which the Naval Postgraduate School is accomplishing its mission. To this end, the board will inquire into the curricula; instruction; physical equipment; administration; state of morale of the student body, faculty, and staff; fiscal affairs; and any other matters relating to the operation of the Naval Postgraduate School as the board considers pertinent.

Dated: April 19, 1999.

Pamela A. Holden,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 99–10810 Filed 4–29–99; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 29, 1999.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address *Pat__*Sherrill@ed.gov, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339

between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above. The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: April 26, 1999.

William E. Burrow,

Acting Leader, Information Management Group, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Revision.

Title: IEA Civics Education Project—Pilot Test and Full Scale.

Frequency: One time.

Affected Public: Individuals or households; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 3,900.

Burden Hours: 3,150.

Abstract: The Civics Education Project is a multi-national project coordinated by the International Association for the Evaluation of Educational Achievement (IEA). More than 20 countries are involved in this collaborative effort to conduct a comparative analysis of civic education around the world. The IEA study has two phases. Phase 1 involves documenting what participating countries believe is important for 14-year-olds to know about a wide range of civic and political topics. Phase 2 involves a student assessment to assess their civic knowledge, skills, attitudes, and actions.

[FR Doc. 99–10816 Filed 4–29–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 1, 1999.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, D.C. 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronically mailed to the internet address *Pat Sherrill@ed.gov*, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) title; (3) summary of the collection; (4) description of the need for, and proposed use of, the information; (5) respondents and frequency of collection; and (6) reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: April 27, 1999.

William E. Burrow,

Acting Leader, Information Management Group, Office of the Chief Information Officer.

Office of Student Financial Assistance Programs

Type of Review: Extension.

Title: Student Right-to-Know.

Frequency: Annually.

Affected Public: Business or other for-profit; Not-for-profit institutions.

Reporting and Recordkeeping Burden:

Responses: 8,000.

Burden Hours: 240,100.

Abstract: These regulations require institutions that participate in a Title IV, Higher Education Act of 1965 program to make available to students and prospective students the graduation rates of full-time undergraduates, and institutions that also are attended by students receiving athletically related student aid to make available to prospective student-athletes, and their parents, coaches, and counselors the graduation rates of students, and student athletes, by race, gender, and sport.

Office of Special Education and Rehabilitative Services

Type of Review: New.

Title: Protection and Advocacy of Individual Rights (PAIR) Program Assurances.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 57.

Burden Hours: 9.

Abstract: Section 509 of the Rehabilitation Act of 1973 as amended (Act), and its implementing Federal Regulations at 34 CFR part 381, require the PAIR grantees to submit an application to the RSA Commissioner in order to receive assistance under section 509 of the Act. The Act requires that the application contain Assurances to which the grantee must comply. Section 509(f) of the Act specifies the Assurances. There are 57 PAIR grantees. All 57 grantees are required to be part of the protection and advocacy system in each State established under the Developmental Disabilities Assistance and Bill of Rights Act (42 USC 6041 *et seq.*).

[FR Doc. 99–10842 Filed 4–29–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Student Financial Assistance, William D. Ford Federal Direct Loan Program and Federal Family Education Loan Program.

AGENCY: Department of Education.

ACTION: Notice of interest rates for the period October 1, 1998, through June 30, 1999, for new loans made under the William D. Ford Federal Direct Loan (Direct Loan) Program and the Federal Family Education Loan (FFEL) Program.

SUMMARY: The Chief Operating Officer for the Office of Student Financial Assistance Programs announces the interest rates for the period October 1, 1998, through June 30, 1999, for loans first disbursed on or after October 1, 1998, under the William D. Ford Federal Direct Loan (Direct Loan) Program and the Federal Family Education Loan (FFEL) Program.

FOR FURTHER INFORMATION CONTACT: For the Federal Family Education Loan Program: Brian Smith, Program Specialist. For the William D. Ford Federal Direct Loan Program: Barbara F. Grayson, Program Specialist, Mailing Address: Policy Development Division, Office of Student Financial Assistance,U.S. Department of Education, Room 3045, ROB–3, 400 Maryland Avenue, SW, Washington, DC 20202–5345. Telephone: (202) 708–8242. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

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.

SUPPLEMENTARY INFORMATION: General—The formulas for determining the interest rates for Direct Loan and FFEL Program loans are provided in sections 455(b), 427A, and 428C of the Higher Education Act of 1965, as amended (HEA). These provisions are amended by sections 452 and 416 of the Higher Education Amendments of 1998 (Pub. L. 105–244), which were enacted on October 7, 1998. The 1998 Amendments extend to July 1, 2003, the interest rate formulas for student and parent loans that have been in effect since July 1, 1998.

The interest rate calculations for all student and parent loans in the Direct Loan and FFEL programs for which the first disbursement is made on or after October 1, 1998, are based on the bond equivalent rate of the 91-day Treasury bills auctioned a the final auction held before June 1.

The Amendments change the formulas for setting interest rates on Consolidation loans under both the Direct Loan and the FFEL programs. However, the bill sets different effective dates for each program. The interest rate for new Consolidation loans is calculated by taking the weighted average of the loans being consolidated, and rounding up to the nearest higher ⅛th of 1 percent. Except as noted below under Federal Family Education Loan Program, it is a fixed rate and may not exceed 8.25 percent. This interest rate formula applies to FFEL Consolidation loans for which the application is received by an eligible lender on or after October 1, 1998, and before July 1, 2003. The same formula applies to Direct Loan Consolidation loans for which the application is received on or after February 1, 1999,and before July 1, 2003. The 1998 Amendments establish temporary rules for calculating the interest rate for Direct Loan Consolidation loans (both student and parent) for which the application is received on or after October 1, 1998, and before February 1, 1999. For these loans, the interest rate is determined annually and equals the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held before June 1st plus 2.3 percent. The interest rate is capped at 8.25 percent.

The bond equivalent rate of 91-day Treasury bills auctioned on may 26, 1998, is 5.155 percent, which round to 5.16 percent.

William D. Ford Federal Direct Loan Program

1. Direct Subsidized and Direct Unsubsidized loans, first disbursed on or after October 1, 1998:

(a) During the in-school, grace, and deferment periods:

The interest rate for the period October 1, 1998, through June 30, 1999, is 6.86 percent (5.16 percent plus 1.7 percent equals 6.86 percent).

(b) During all other periods:

The interest rate for the period October 1, 1998, through June 30, 1999, is 7.46 percent (5.16 percent plus 2.3 percent equals 7.46 percent).

2. Direct PLUS loans first disbursed on or after October 1, 1998:

The interest rate for the period October 1, 1998, through June 30, 1999, is 8.26 percent (5.16 percent plus 3.1 percent equals 8.26 percent).

3. Direct Consolidation loans for which the application is received on or after October 1, 1998, and before February 1, 1999:

The interest rate for the period October 1, 1998, through June 30, 1999, is 7.46 percent (5.16 percent plus 2.3 percent equal 7.46 percent).

4. Direct Consolidation loans for which the application is received on or after February 1, 1999:

The interest rate is the weighted average of the interest rates on loans and being consolidated, rounded to the nearest higher 1/8th of one percent, but may not exceed 8.25 percent. The rate does not vary annually; it is established for the life of the loan.

Federal Family Education Loan Program

1. FFEL Stafford loans, first disbursed on or after October 1, 1998:

(a) During the in-school, grace, and deferment periods:

The interest rate for the October 1, 1998, through June 30, 1999, is 6.86 percent (5.16 percent plus 1.7 percent equals 6.86 percent.

(b) During all other periods:

The interest rate for the period October 1, 1998, through June 30, 1999, is 7.46 percent plus 2.3 percent equals 7.46 percent).

2. FFEL PLUS loans first disbursed on or after October 1, 1998:

The interest rate for the October 1, 1998, through June 30, 1999, is 8.26 percent (5.16 percent plus 3.1 percent equals 8.26 percent).

3. FFEL Consolidation loans for which the consolidation loan

application was received by the lender on or after October 1, 1998:

The interest rate is the weighted average of the interest rates on the loans being consolidated, rounded to the nearest higher ⅛th of one percent, but may not exceed 8.25 percent. This rate does not vary annually. It is established for the life of the loan, unless portion of the Consolidation loan is attributable to a loan made under subpart I and part A of title VII of the Public Health Service Act. The interest rate on that portion of a Consolidation loan is determined annually, and equals the average of the bond equivalent rates of the 91-day Treasury bills auctioned for the quarter prior to July 1st plus 3 percent. For the period October 1, 1998, through June 30, 1998, the interest rate for that portion of a Consolidation loans is 8.13 percent (5.13 percent plus 3.0 percent equals 8.13 percent).

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.hmt
http://www.ed.gov/fedreg.hmtl

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 1–888–293–6498.

Note: The official version of this document is the document published in the **Federal Register**.

Program Authority: 20 U.S.C. 1077a, 20 U.S.C. 1087e, and Pub. L. 105–244.

Dated: April 27, 1999.

Greg Woods,

Chief Operating Officer, Office of Student Financial Assistance.

[FR Doc. 99–10885 Filed 4–29–99; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Notice of Wetland Involvement

AGENCY: Chicago Operations Office, DOE.

ACTION: Notice.

SUMMARY: DOE is conducting a corrective action program at Argonne National Laboratory-East (ANL-E) as required by the Resource Conservation and Recovery Act (RCRA). As part of the corrective action program, DOE proposes to reroute a portion of a drainage ditch in order to place a protective cap on a former landfill. This action would eliminate small wetland areas along the edges of the drainage ditch. In accordance with DOE regulations for Compliance with Floodplains/Wetlands Environmental Review Requirements (10 CFR 1022), DOE will prepare a wetlands assessment for this proposed action and will consider options to enhance the ecological functioning of the drainage ditch.

DATES: Comments are due to the address below no later than May 17, 1999.

ADDRESSES: Comments should be addressed to Timothy S. Crawford, Manager, Argonne Group, U.S. Department of Energy, Chicago Operations Office, 9800 S. Cass Avenue, Argonne, IL 60439. (630) 252–2436.

FOR FURTHER INFORMATION ON THIS PROPOSED ACTION, CONTACT: Timothy S. Crawford, Manager, Argonne Group, U.S. Department of Energy, 9800 S. Cass Avenue, Argonne, IL 60439, Phone: (630) 252–2264, Fax: (630) 252–2361.

FOR FURTHER INFORMATION ON GENERAL DOE WETLAND ENVIRONMENTAL REVIEW REQUIREMENTS, CONTACT: Dr. W. Sedgefield White, Chicago Operations Office, U.S. Department of Energy, 9800 South Cass Avenue, Argonne, Illinois 60439, Phone (630) 252–2101, Fax: (630) 252–2835.

SUPPLEMENTARY INFORMATION:

Remediation at the former 319 Landfill requires construction of an access road and two new channels to improve storm water drainage and reduce erosion in the area. This proposed action would impact the northern edge of a small storm water ditch with a total area between 270 and 450 square feet (about 90 feet long and three to five feet wide). Water is retained in the ditch during and after storm events and this area fosters the growth of three common wetland species that typically grow in disturbed sites and poor quality wetlands: cattail (*Typha angustifolia*), bulrush (*Scirpus atrovirens*), and spike rush (*Eleocharis erythropoda*). The effect of the proposed action on the storm water drainage ditch will be assessed and options to enhance the ecological functioning of the drainage ditch will be considered.

Issued in Argonne, Illinois on 21st day of April, 1999

Robert L. San Martin,

Manager, Chicago Operations Office.

[FR Doc. 99–10890 Filed 4–29–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy

Orders Granting, Amending, and Vacating Authorizations To Import and Export Natural Gas, Including Liquefied Natural Gas

POCO MARKETING LTD. (Formerly Poco Petroleum, Inc.), THE MEAD CORPORATION, PROGAS U.S.A., INC., CMS MARKETING SERVICES, AND TRADING COMPANY, PRODUCERS MARKETING CORPORATION (Formerly CU Energy Marketing Inc.), PRODUCERS MARKETING CORPORATION (Formerly CU Energy Marketing Inc.), MIDCON GAS SERVICES CORP., MIDCON GAS SERVICES CORP., MIDCON TEXAS GAS SERVICES CORP., RELIANT ENERGY SERVICES, INC. (Formerly NorAm Energy Services, Inc.), TRANSALTA ENERGY MARKETING (U.S.) INC., AVISTA ENERGY, INC., FE DOCKET NO. 90–93–NG, 99–17–NG, 99–16–NG, 99–18–LNG, 96–34–NG, 88–27–NG, 96–71–NG, 97–50–NG, 91–49–NG, 97–31–NG, 99–21–NG, 99–20–NG.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that it has issued Orders granting, amending, and vacating natural gas, including liquefied natural gas, import and export authorizations. These Orders are summarized in the attached appendix.

These Orders may be found on the FE web site at http://www.fe.doe.gov., or on the electronic bulletin board at (202) 586–7853.

They are also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on April 8, 1999.

John W. Glynn,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum Import & Export Activities, Office of Fossil Energy.

Attachment

APPENDIX—ORDERS GRANTING, AMENDING AND VACATING IMPORT/EXPORT AUTHORIZATIONS
[DOE/FE authority]

Order No.	Date Issued	Importer/Exporter FE Docket No.	Two-year maximum		Comments
			Import volume	Export volume	
507–B	03/01/99 ..	Poco Marketing LTD. (Formerly Poco Petroleum, Inc.) 90–93–NG.	.....	.....	Name change.
1467 ...	03/01/99 ..	The Mead Corporation 99–17–NG.	60 Bcf	.....	Import from Canada beginning on the date of first delivery.
1468 ...	03/01/99 ..	ProGas U.S.A., Inc. 99–16–NG.	800 Bcf	200 Bcf	Import and Export from and to Canada beginning on the date of first import or export after March 31, 1999.
1469 ...	03/12/99 ..	CMS Marketing Services, and Trading Company 99–18–LNG.	440 Bcf	.....	Import from various international sources, beginning on date of first shipment.
1174–A	03/16/99 ..	Producers Marketing Corporation (Formerly CU Energy Marketing Inc.) 96–34–NG.	.....	.....	Name change.
259–A	03/16/99 ..	Producers Marketing Corporation (Formerly CU Energy Marketing Inc.) 88–27–NG.	.....	.....	Name change.
1208–A	03/18/99 ..	MidCon Gas Services Corp. 96–71–NG.	.....	.....	Vacate import authority.
1285–A	03/18/99 ..	MidCon Gas Services Corp. 97–50–NG.	.....	.....	Vacate export authority.
832–A	03/19/99 ..	MidCon Texas Gas Services Corp. (Formerly UTRADE Gas Company) 91–49–NG.	.....	.....	Vacate import authority.
1270–A	03/19/99 ..	Reliant Energy Services, Inc. (Formerly NorAm Energy Services, Inc.) 97–31–NG.	.....	.....	Name change.
1471 ...	03/23/99 ..	Transalta Energy Marketing (U.S.) Inc. 99–21–NG.	400 Bcf		Import and export a combined total from and to Canada beginning on the date of first import or export delivery.
1472 ...	03/25/99 ..	Avista Energy, Inc. 99–20–NG	.....	219 Bcf	Export to Canada beginning on the date of first delivery.

[FR Doc. 99–10891 Filed 4–29–99; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG99–17–000]

Arkansas Western Pipeline, L.L.C.; Notice of Filing

April 26, 1999.

Take notice that on April 13, 1999, Arkansas Western Pipeline, L.L.C. (Arkansas) filed standards of conduct under Order Nos. 497 *et seq.*,[1] Order Nos. 566 *et seq.*[2] and Order No. 599.[3]

Arkansas states that it served copies of the standards of conduct on all Arkansas customers and interested state commissioners.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before May 11, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 99–10874 Filed 4–29–99; 8:45 am]
BILLING CODE 6717–01–M

[1] Order No. 497, 53 FR 22139 (June 14, 1988), FERC Stats. & Regs. 1986–1990 ¶ 30,820 (1988); Order No. 497–A, *order on rehearing,* 54 FR 52781 (December 22, 1989), FERC Stats. & Regs. 1986–1990 ¶ 30,868 (1989); Order No. 497–B, *order extending sunset date,* 55 FR 53291 (December 28, 1990), FERC Stats. & Regs. 1986–1990 ¶ 30,908 (1990); Order No. 497–C, *order extending sunset date,* 57 FR 9 (January 2, 1992), FERC Stats. & Regs. 1991–1996 ¶ 30,934 (1991), *rehearing denied,* 57 FR 5815 (February 18, 1992), 58 FERC ¶ 61,139 (1992); Tenneco Gas v. FERC (affirmed in part and remanded in part), 969 F. 2d 1187 (D.C. Cir. 1992); Order No. 497–D, *order on remand and extending sunset date,* 57 FR 58978 (December 14, 1992), FERC Stats. & Regs. 1991–1996 ¶ 30,958 (December 4, 1992); Order No. 497–E, *order on rehearing and extending sunset date,* 59 FR 243 (January 4, 1994), FERC Stats. & Regs. 1991–1996 ¶ 30,958 (December 23, 1993); Order No. 497–F, *order denying rehearing and granting clarification,* 59 FR 15336 (April 1, 1994), 66 FERC ¶ 61,347 (March 24, 1994); and Order No. 497–G, *order extending sunset date,* 59 FR 32884 (June 27, 1994), FERC Stats. & Regs. 1991–1996 ¶ 30,996 (June 17, 1994).

[2] Standards of Conduct and Reporting Requirements for Transportation and Affiliate Transactions, Order No. 566, 59 FR 32885 (June 27, 1994), FERC Stats. & Regs. 1991–1996 ¶ 30,997 (June 17, 1994); Order No. 566–A, *order on rehearing,* 59 FR 52896 (October 20, 1994), 69 FERC ¶ 61,044 (October 14, 1994); Order No. 566–B, *order on rehearing,* 59 FR 65707 (December 21, 1994), 69 FERC ¶ 61,334 (December 14, 1994).

[3] Reporting Interstate Natural Gas Pipeline Marketing Affiliates on the Internet, Order No. 599, 63 FR 43075 (August 12, 1998), FERC Stats. & Regs. ¶ 31,064 (1998).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–290–000]

Boundary Gas, Inc., Notice of Application

April 15, 1999.

Take notice that on April 7, 1999, Boundary Gas, Inc. (Boundary), 100 Cummings Center, Suite 457G, Beverly, Massachusetts 01915–6132, filed an application in Docket No. CP99–290–000 pursuant to Section 7(b) of the Natural Gas Act (NGA) and Part 157 of the Commission's Regulations, for authority to abandon gas service to Yankee Gas Services Company (Yankee) effective July 2, 19998, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance).

Boundary states that by letter dated June 26, 1997, Boundary and Yankee reached an agreement permitting Yankee to terminate its contractual relationship with Boundary and to enter into a separate agreement to purchase directly from TransCanada Pipelines Limited (TransCanada), Boundary's supplier, the volumes of gas Yankee has previously taken from Boundary, effective the date that Yankee was to specify in a Notice of Termination (Notice). Boundary also states that Yankee served the Notice on June 25, 1998 to Boundary stating that Yankee was terminating its contract effective July 1, 1998. Boundary further states that Yankee implemented its termination on July 2, 1998.

Boundary says that on January 28, 1999, Boundary and TransCanada entered into a letter agreement. Boundary and all of the other Repurchasers [1] entered into the Amendment to Phase 2 Gas Sales Agreement and the Eighth Amendment to Memorandum of Agreement (copies are included in Exhibit U of the application), all of which provide, *inter alian,* for the departure of Yankee effective July 2, 1998. Boundary also says that prior to Yankee's withdrawal, its stock ownership in Boundary was 10.23 percent, which entitled it to purchase 9,463 Mcf per day.

[1] Boundary is a close corporation wholly owned by its fourteen stockholders who are referred to as Repurchasers and all of them are local distribution companies located in New York, New Jersey and New England, plus they are Boundary's only customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 6, 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 385.211 or 385.214) and the regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any 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 Commission by Sections 7 and 15 of the NGA 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 procedures herein provided for, unless otherwise advised, it will be unnecessary for Boundary to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10928 Filed 4–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–1875–000]

Canadian Niagara Power Company, Limited; Notice of Issuance of Order

April 26, 1999.

Canadian Niagara Power Company, Limited (Canadian Niagara), filed an application seeking Commission authorization to engage in the sale of energy and capacity at market-based rates, and for certain waivers and authorizations. In particular, Canadian Niagara requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Canadian Niagara. On April 15, 1999, the Commission issued an Order Accepting For Filing Proposed Rate Schedules for Sales Of Capacity, Energy And Ancillary Services At Market-Based Rates (Order), in the above-docketed proceeding.

The Commission's April 15, 1999 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (C), (D), and (F):

(C) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Canadian Niagara should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(D) Absent a request to be heard within the period set forth in Ordering Paragraph (C) above, Canadian Niagara is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Canadian Niagara, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(F) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Canadian Niagara's issuances of securities or assumptions of liabili ties. * * *

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 17, 1999.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE, Washington, DC 20426.

David P. Boergers,

Secretary.

[FR Doc. 99–10883 Filed 4–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–297–000]

Florida Gas Transmission Company; Notice of Request Under Blanket Authorization

April 15, 1999.

Take notice that on April 12, 1999, Florida Gas Transmission Company, (Applicant), 1400 Smith Street, Suite 3963, P.O. Box 1188, Houston, Texas, 77251–1188, filed in Docket No. CP99–297–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for approval to construct, own, and operate a new bi-directional interconnect on Applicant's 12-inch Chacahoula Lateral to accommodate natural gas deliveries to and from the Napoleonville Gas Storage Facilities Napoleonvilee Facility), under Applicant's blanket certificate issued in Docket No. CP82–553–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicant proposes to construct, own, and operate a 12-inch tee and side valve.[1] Applicant states that Enron Storage Company (Enron Storage) will construct, own, and operate a new meter station and short connecting pipe to the Napoleonville Facility. Applicant asserts that the maximum gas quantity that it will deliver/receive into the subject meter station is 100,000 MMBtu per day or 36,5000,000 MMBtu per year. Applicant further assets that Enron Storage and Applicant will each be responsible for fifty per cent of the total combined costs for all facilities up to one-hundred-twenty per cent of the estimate of cost of $1,050,000.

Any person or the Commission's Staff may, within 45 days of the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene and pursuant to Section 157.205 of the regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activities 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 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10929 Filed 4–29–99; 8:45 am]

BILLING CODE 6717–01–M

[1] Applicant also intends to construct a 4,200 foot 12-inch lateral pursuant to Section 157.208(a) of the Commission's Regulations and Applicant's blanket certificate.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG99–14–000]

Michigan Gas Storage Company; Notice of Filing

April 26, 1999.

Take notice that on April 13, 1999, Michigan Gas Storage Company (Michigan Gas) filed revised standards of conduct to incorporate Standard L (to be codified at 18 CFR 161.3(1)) under Order No. 599.[1]

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before May 11, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 99–10877 Filed 4–29–99; 8:45 am]

BILLING CODE 6717–01–M

[1] Reporting Interstate Natural Gas Pipeline Marketing Affiliates on the Internet, Order No. 599, 63 FR 43075 (August 12, 1998), FERC Stats. & Regs. ¶ 31,064 (1998).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–160–001]

National Fuel Gas Supply Corporation; Notice of Amendment

April 26, 1999.

Take notice that on April 22, 1999, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP99–160–001 to amend its pending application filed January 19, 1999, in Docket CP99–160–000 to uprate a compressor unit at its Ellisburg Compressor Station to provide additional firm transportation service from Ellisburg, Pennsylvania to Leidy, Pennsylvania, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–0400 for assistance).

National Fuel states that in its application, it estimated the cost of the proposed uprating to be $101,600. National Fuel asserts that it has since learned that it will be required to purchase emission reduction credits in order to obtain a modified emissions permit for Unit 1A from the Pennsylvania Department of Environmental Protection. National Fuel estimates that the cost of these credits and related expenses will be approximately $122,000, increasing the estimated project cost to $233,600. National Fuel indicates that it has reviewed the Environmental Report included with the application (Exhibit Z–1) and Resource Report No. 9 in particular, and has determined that no changes are necessary to this report.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before May 4, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 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 National Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the 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. Any person who filed to intervene in Docket No. CP99–160–000 need not file again.

Take further notice that, pursuant to the authority contained in and subject to 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 with further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, or if the Commission on its own review of the matter finds that permission and approval for the proposed certificate and 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 National Fuel to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 99–10876 Filed 4–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER99–1829–000, ER99–1936–000, ER99–1940–000 (Not consolidated)]

Northeast Utilities Service Company, PDI New England, Inc. and PDI Canada, Inc., Penobscot Hydro, LLC; Notice of Issuance of Order

April 26, 1999.

Northeast Utilities Service Company, PDI New England, Inc. and PDI Canada, Inc., and Penobscot Hydro, LLC (hereinafter, ''the Applicants'') filed with the Commission rate schedules in the above-captioned proceedings, respectively, under which the Applicants will engage in wholesale electric power and energy transactions at market-based rates, and for certain waivers and authorizations. In particular, certain of the Applicants may also have requested in their respective applications that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liabilities by the Applicants. On April 15, 1999, the Commission issued an order that accepted the rate schedules for sales of capacity and energy at market-based rates (Order), in the above-docketed proceedings.

The Commission's April 15, 1999 Order granted, for those Applicants that sought such approval, their request for blanket approval under part 34, subject to the conditions found in Appendix B in ordering paragraphs (2), (3), and (5):

(2) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilies by the Applicants should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures, 18 CFR 395.211 and 398.214.

(3) Absent a request to be heard within the period set forth in Ordering Paragraph (2) above, if the Applicants have requested such authorization, the Applicants are hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of the Applicants, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(5) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of the applicant's issuance of securities or Assumptions of liabilities. * * *

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 17 1999.

Copies of the full text of the Order are available from the Commission's Public Referenece Branch, 888 First Street, NE, Washington, DC 20426.

David P. Boergers.

Secretary.

[FR Doc. 99–10881 Filed 4–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG99–16–000]

Ozark Gas Transmission System and Ozark Gas Transmission L.L.C.; Notice of Filing

April 26, 1999.

Take notice that on April 13, 1999, Ozark Gas Transmission System and Ozark Gas Transmission L.L.C. (Ozark) filed standards of conduct under Order Nos. 497 *et seq.*,[1] Orders Nos. 566 *et seq.*[2] and Orders No. 599.[3]

Ozark states that it served copies of the standards of conduct on all Ozark customers and interested state commissioners.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before May 11, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party

[1] Order No. 497, 53 FR 22139 (June 14, 1988), FERC Stats. & Regs. 1986–1990 ¶ 30,820 (1988); Order No. 497–A, *order on rehearing,* 54 FR 52781 (December 22, 1989), FERC Stats. & Regs. 1986–1990 ¶ 30,868 (1989); Order No. 497–B, *order extending sunset date,* 55 FR 53291 (December 28, 1990), FERC Stats. & Regs. 1986–1990 ¶ 30,908 (1990); Order No. 497–C, *order extending sunset date,* 57 FR 9 (January 2, 1992), FERC Stats. & Regs. 1991–1996 ¶ 30,934 (1991), *rehearing denied,* 57 FR 5815 (February 18, 1992), 58 FERC ¶ 61,139 (1992); Tenneco Gas & FERC (affirmed in part and remanded in part), 969 F.2d 1187 (D.C. Cir. 1992); Order No. 497–D, *order on remand and extending sunset date,* 57 FR 58978 (December 14, 1992), FERC Stats. & Regs. 1991–1996 ¶ 30,958 (December 4, 1992); Order No. 497–E, *order on rehearing and extending sunset date,* 59 FR 243 (January 4, 1994), FERC Stats. & Regs. 1991–1996 ¶ 30,958 (December 23, 1993); Order No. 497–F, *order denying rehearing and granting clarification,* 59 FR 15336 (April 1, 1994), 66 FERC ¶ 61,347 (March 24, 1994); and Order No. 497–G, *order extending sunset date,* 59 FR 32884 (June 27, 1994) FERC Stats. & Regs. 1991–1996 ¶ 30,996 (June 17, 1994).

[2] Standards of Conduct and Reporting Requirements for Transportation and Affiliate Transactions, Order No. 497–566, 59 FR 32885 (June 27, 1994), FERC Stats. & Regs. 1991–1996 ¶ 30,997 (June 17, 1994); Order No. 566–A, *order on rehearing,* 59 FR 52896 (October 20, 1994), 69 FERC ¶ 61,044 (October 14, 1994); Order No. 566–B. *order on rehearing,* 59 FR 65707 (December 21, 1994), 69 FERC ¶ 61,334 (December 14, 1994).

[3] Reporting Interstate Natural Gas Pipeline Marketing Affiliates on the Internet, Order No. 599, 63 FR 43075 (August 12, 1998), FERC Stats. & Regs. ¶ 31,064 (1998).

must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc 99–10873 Filed 4–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG99–104–000]

PDI Canada, Inc.; Notice of Amended Application for Commission Determination of Exempt Wholesale Generator Status

April 26, 1999.

Take notice that on April 23, 1999, PDI New England, Inc., d/b/a WPS New England Generation, Inc., a Wisconsin corporation with its headquarters at 677 Baeten Road, Green Bay, WI 54304, filed with the Federal Energy Regulatory Commission an amendment to its application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

PDI New England, Inc. is a wholly-owned subsidiary of WPS Power Development, Inc., which in turn is a wholly-owned, indirect subsidiary of WPS Resources Corporation, headquartered in Green Bay, Wisconsin. WPS Resources Corporation is an exempt public utility holding company. Its subsidiaries include Wisconsin Public Service Corporation, an electric and natural gas public utility serving portions of northeastern Wisconsin and the upper peninsula of Michigan. PDI New England, Inc. will be taking title to and operating certain assets located in Maine being divested by Maine Public Service Company (MPS). These assets include generating facilities with total capacity of approximately 36 MW and related assets located in northern Maine, and a 3.3455% interest in the Wyman No. 4 Unit, a generating facility in southern Maine.

The amendment to the application notes that the Maine Public Utilities Commission, by Order of April 5, 1999 in Docket 98–584, has determined that allowing PDI New England, Inc. to acquire the facilities to be transferred will benefit consumers, is in the public interest, and does not violate State law.

Any person desiring to be heard concerning the amended application for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the amended application. All such motions and comments should be filed on or before May 3, 1999, and must be served on the applicant. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection or on the internet at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–10879 Filed 4–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG99–105–000]

PDI New England, Inc.; Notice of Amended Application for Commission Determination of Exempt Wholesale Generator Status

April 26, 1999.

Take notice that on April 23, 1999, WPS New England Generation, Inc., A Wisconsin corporation with its headquarters at 677 Baeten Road, Green Bay, WI 54304, filed with the Federal Energy Regulation Commission an amendment to its application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

PDI New England, Inc. is a wholly-owned subsidiary of WPS Power Development, Inc., which in turn is a wholly-owned, indirect subsidiary of WPS Resources Corporation, headquartered in Green Bay, Wisconsin. WPS Resources Corporation is an exempt public utility holding company. Its subsidiaries include Wisconsin Public Service Corporation, an electric and natural gas public utility serving portions of northeastern Wisconsin and the upper peninsula of Michigan. PDI New England, Inc. will be taking title to and operating certain assets located in Maine being divested by Maine Public Service Company (MPS). These assets include generating facilities with total capacity of approximately 36 MW and related assets located in northern Maine, and a 3.3455% interest in the Wyman No. 4 Unit, a generating facility in southern Maine.

The amendment to the application notes that the Maine Public Utilities Commission, by Order of April 5, 1999 in Docket 98–584, has determined that allowing PDI New England, Inc. to acquire the facilities to be transferred will benefit consumers, is in the public interest, and does not violate State law.

Any person desiring to be heard concerning the amended applicant for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the amended application. All such motions and comments should be filed on or before May 3, 1999, and must be served on the applicant. Any person wishing to become a party must file a motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection or on the internet at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–2222 for assistance).

David P. Boerger,

Secretary.

[FR Doc. 99–10880 Filed 4–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 9974–040]

Rough and Ready Hydro, Inc.; Notice of Intent To Conduct Public Meetings for the Upper Watertown Project on Rock River in Wisconsin

April 26, 1999.

The Federal Energy Regulatory Commission (Commission) is proposing revocation of the exemption from licensing for the Upper Watertown Project located on the Rock River in Jefferson County, Wisconsin. The Commission will hold public meetings on May 20, 1999, in preparation for completing the Final Environmental Assessment (FEA).

The Commission staff will hold the public meetings in the vicinity of the Upper Watertown Project. The purpose of the public meetings are to entertain further comments on the Draft Environmental Assessment (DEA),

issued April 12, 1999, and to ensure that any outstanding environmental issues are included in the FEA. We invite all interested resources agencies, non-governmental organizations (NGO's), and individuals to attend one of the meetings. The time and location of the public meetings are shown below:

Date: Thursday, May 20, 1999.

Time: 10:00 a.m. to 12:00 noon or 7:00–9:00 p.m.

Place: Watertown Municipal Building, Common Council Chambers, 106 Jones Street, Watertown, WI 53094.

At the public meetings, the Commission staff will: (1) summarize the status of the revocation proceeding(s) and the environmental issues identified in the DEA; (2) receive any statements or comments on the environmental issues that should be analyzed in the FEA; and (3) answer any questions asked of the Commission.

Before the meetings start, all individuals who attend, will be asked to identify themselves by signing in. Individuals that intend to make statements during the meetings will be asked to clearly identify themselves prior to speaking. Interested parties who choose not to speak, or who are unable to attend the public meetings, may provide written comments to the Commission by June 11, 1999. Written comments should be submitted to: Mr. David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426. Please affix the caption ''Upper Watertown Project, FERC No. 9974–040'' to the top of all comments. For further information, please contact the environmental coordinator, Bob Fletcher at (202) 219–1206.

David P. Boergers,

Secretary.

[FR Doc. 99–10875 Filed 4–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

SCC–L1, L.L.C. [Docket No. ER99–1914–000]; SCC–L2, L.L.C. [Docket No. ER99–1915–000]; SCC–L3, L.L.C. [Docket No. ER99–1942–000]; Notice of Issuance of Order

April 26, 1999.

SCC–L1, L.L.C., SCC–L2, L.L.C., and SCC–L3, L.L.C. (collectively, Applicants) filed respective applications requesting that the Commission accept market-based rate tariffs, power purchases agreements (PPA's), and Interconnection Agreements, (IA's). Under the PPAs, the Applicants will make wholesale power sales at market-based rates to Enron Power Marketing, Inc. (EPMI), a power-marketer. In addition, under the tariffs, the applicants requested blanket authorization to sell at market-based rates electric energy generated in excess of the amounts scheduled by EPMI, and for certain waivers and authorizations. In particular, Applicants requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liabilities by Applicants. On April 15, 1999, the Commission issued an Order Conditionally Accepting For Filing Proposed Market-Based Rates (Order), in the above-docketed proceeding.

The Commission's April 15, 1999 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (E), (F), and (H):

(E) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Applicants should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(F) Absent a request to be heard within the period set forth in Ordering Paragraph (E) above, the Applicants are hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of the Applicants, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(H) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of the Applicants's issuances of securities or assumptions of liabilities * * *.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 17, 1999.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE, Washington, DC 20426.

David P. Boergers,

Secretary.

[FR Doc. 99–10882 Filed 4–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP93–151–026]

Tennessee Gas Pipeline Company; Notice of GSR Reconciliation Report

April 15, 1999.

Take notice that on March 31, 1999, in accordance with Article VI, Section C of the February 28, 1997 GSR Stipulation and Agreement (Stipulation), Tennessee Gas Pipeline Company (Tennessee) tendered for filing its GSR Reconciliation Report.

In accordance with Article VI, Section (c)(2) of the Stipulation, Tennessee states that the Reconciliation Report also reflects a refund by Tennessee to UGI Utilities, Inc. (UGI) in the amount of $477,642 which fully resolves all issues regarding UGI's contribution to Restructuring Costs.

Tennessee states that copies of the Reconciliation Report has been served on all parties on the service list in the referenced proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before April 22, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–10930 Filed 4–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–333–000]

Texas Eastern Transmission Corporation; Notice of Request Under Blanket Authorization

April 26, 1999.

Take notice that on April 22, 1999, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in

Docket No. CP99–333–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct a new delivery point on Texas Eastern's existing 30-inch Line No. 16 in Harris County, Texas, to make natural gas deliveries to Reliant Energy HL&P (Reliant Energy), a local distribution company, under Texas Eastern's blanket certificate issued in Docket No. CP82–535–000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Specifically, Texas Eastern requests authorization to construct, install, own, operate and maintain a 12-inch tap valve and a 12-inch check valve on its existing 30-inch Line No. 16, at approximate Mile Post 337.32 in Harris County, Texas; a 12-inch ultrasonic meter run plus associated piping; approximately 100 feet of 16-inch pipeline, and electronic gas measurement equipment. Texas Eastern states that the maximum daily delivery capacity of this proposed delivery point will be approximately 200 MMcf/Day. Texas Eastern states that the estimated cost of the project facilities is $886,000.

Texas Eastern states that it will render the transportation service at the proposed delivery point pursuant to Texas Eastern's open-access rate schedules included in its FERC Gas Tariff, Sixth Revised Volume No. 1. Texas Eastern states that its existing tariff does not prohibit the addition of this facility. Texas Eastern submits that its proposal herein will be accomplished without detriment or disadvantage to Texas Eastern's other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Secretary.

[FR Doc. 99–10878 Filed 4–29–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 26, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* 2055–010.

c. *Date filed:* November 24, 1998.

d. *Applicant:* Idaho Power Company.

e. *Name of Project:* C.J. Strike Hydroelectric Project.

f. *Location:* On the Snake River, in Owyhee County, Idaho between the towns of Grandview and Bruneau. The project is partially located within federal lands administered by the Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* L. Lewis Wardle, Idaho Power Company, 1221 West Idaho Street, P.O. Box 70, Boise, ID 83707, (208) 388–2964.

i. *FERC Contact:* John Blair, john.blair@ferc.fed.us, 202–219–2845.

j. *Deadline for filing motions to intervene and protest:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Status of environmental analysis: This application is not ready for environmental analysis at this time.

l. The project consists of the following existing facilities: (1) the existing reservoir impounding 32 miles of the Snake River and 7 miles of the Bruneau River; (2) the existing 3,220-foot-long dam with a height of 115 feet; (3) a powerhouse containing three generating units having an installed capacity of 82.8 megawatts; (4) 3,019 acres of Bureau of Land Management land; (5) two 138-kv transmission lines spanning a total of 90 miles.

m. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. This notice also consists of the following standard paragraphs: B1 and E1.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211 and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

E1. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions. When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions. All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application

directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's Regulations to: The Secretary and an additional copy must be sent to the Director, Division of Project Review, Office of Hydropower Licensing, at the above-mentioned address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

David P. Boergers

Secretary.

[FR Doc. 99–10884 Filed 4–29–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6333–9]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Standards of Performance for Petroleum Refineries

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: Standards of Performance for Petroleum Refineries OMB Control No. 2060–0022, expiring 6/30/99. 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 June 1, 1999.

FOR FURTHER INFORMATION CONTACT: Contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download a copy of the ICR off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1054.07.

SUPPLEMENTARY INFORMATION:

Title: Standards of Performance for Petroleum Refineries (OMB No. 2060–0022; EPA ICR No. 1054.07, expiration 6/30/99). This is a request for revision of a currently approved collection.

Abstract: In the Administrator's judgement, particulate matter, carbon monoxide, and sulfur oxides emissions from petroleum refineries cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. In order to assure compliance with the emissions standards, adequate monitoring and recordkeeping is necessary. If the information required by the standards were not collected, the Agency would have no means for ensuring that compliance with the NSPS is achieved and maintained by sources subject to the regulation. The information collected is also used for targeting inspections, and is of sufficient quality to be used as evidence in court. The information collected is required under 40 CFR part 60, subpart J and records of the information are required to be maintain for at least two years. 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** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 9/04/98 (63 FR 47280). No comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 0.25 hours per response (normal data collection) and 346 (performance test burden). 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: Owners or operators of Petroleum Refineries.

Estimated Number of Responses: 197.

Frequency of Response: Quarterly, Semi-annually.

Estimated Annual Hour Burden: 19,045.

Estimated Total Annualized Capital/O&M Cost Burden: $123,500.

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. 1054.07 and OMB Control No. 2060–0022 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: April 26, 1999.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 99–10855 Filed 4–29–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6242–2]

Environmental Impact Statements; Notice of Availability

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153.

Weekly receipt of Environmental Impact Statements Filed April 19, 1999 Through April 23, 1999.

Pursuant to 40 CFR 1506.9.

EIS No. 990134, Draft EIS, FHW, WI, WI–113, Wisconsin River Crossing at Merrimac, Improvements, US Coast Guard and COE Section 10 and 404 Permits, Columbia and Sauk Counties, WI, Due: June 14, 1999, Contact: Peter Garcia (608) 839–7513.

EIS No. 990135, Final EIS, FHW, WI, US 141, Highway Transportation Project, Improvement between WI–22 and WI–64 (LeMere Road—6th Road), Funding and COE Section 4 Permit, Marinette and Oconto Counties, WI, Due: June 01, 1999, Contact: Peter Garcia (608) 829–7500.

EIS No. 990136, Revised Final EIS, AFS, AK, Canal Hoya Timber Sale, Implementation, Stikine Area, Tongass National Forest, Value Comparison Unit (VCU), AK, Due: June 01, 1999, Contact: Scott Posner (907) 874–2323.

EIS No. 990137, Final EIS, FAA, MD, VA, DC, Potomac Consolidated Terminal (PCT) Radar Approach Control Facility (TRACON), To consolidated four TRACON in Baltimore-Washington Metro Terminal Area, Possible Site is Vint

Hill Farms, VA, DC and MD , Due: June 1, 1999, Contact: Joseph Champley (800) 762–9531.
EIS No. 990138, Draft EIS, COE, CA, Tule River Basin Investigation Project, Plan to Increase Flood Protection Downstream of Success Dam and Increase Storage Space in Lake Success for Irrigation Water, Tule River Tulace and King Counties, CA, Due: June 15, 1999, Contact: Mario Parker (916) 557–6701.
EIS No. 990139, Draft Supplement, FTA, OR, WA, South/North Corridor Project, Additional Information on New Alignment Alternative, Improvements to the Existing Urban Transportation, Funding, Multnomah, Clackamas and Washington Counties, OR and Clark County, WA, Due: June 14, 1999, Contact: Ross Roberts (503) 797–1752.
EIS No. 990140, Draft EIS, BLM, WY, Continental Divide/Wamsutter II Natural Gas Project, Implementation of Natural Gas Exploration and Development, Sweetwater and Carbon Counties, WY, Due: July 01, 1999, Contact: Clare Miller (307) 328–4245.
EIS No. 990141, Final EIS, COE, FL, Programmatic EIS—Central and Southern Florida Multi-Purpose Project, Comprehensive Review Study, Everglades National Park, Orlando to Florida Bay, FL, Due: June 01, 1999, Contact: Russell Reed (904) 232–3967.
EIS No. 990142, Final EIS, AFS, MT, Ash and Iron Mountain Grazing Permit Reissuance, Allotment Gallatin National Forest, Park County, MT , Due: June 01, 1999, Contact: Pat Hoppe (406) 848–7375.
EIS No. 990143, Draft Supplement, TPT, CA, Presidio of San Francisco General Management Plan, Implementation, New Development and Uses within the Letterman Complex, Golden Gate National Recreation Area, City and County of San Francisco, CA, Due: June 14, 1999, Contact: John Pelka (415) 561–5300.

Dated: April 27, 1999.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 99–10916 Filed 4–29–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6334–1]

Announcement of Stakeholders Meetings on Arsenic in Drinking Water

AGENCY: Environmental Protection Agency.

ACTION: Notice of stakeholders meetings.

SUMMARY: The U.S. Environmental Protection Agency (EPA) will be holding a day-and-a-half public meeting on June 2–3, 1999 in Washington, DC; and a one-half-day conference call on June 3. The purpose of these meetings is to present an update on EPA's work to develop a proposed National Primary Drinking Water Regulation (NPDWR) for arsenic under the Safe Drinking Water Act (SDWA) as amended, and solicit public input on major technical and implementation issues. These two meetings will present an update on the regulatory and research processes for arsenic, similar to the last three arsenic stakeholders meetings. EPA is again seeking input from State and Tribal drinking water programs, the regulated community (water systems), public health organizations, academia, environmental and public interest groups, engineering firms, and other stakeholders on a number of issues related to developing the NPDWR for arsenic. EPA encourages the full participation of stakeholders throughout this process.

DATES: The District of Columbia stakeholders meeting on arsenic in drinking water will be held on Wednesday, June 2, 1999 from 8:30 a.m. to 5:00 p.m. Eastern Daylight Time (EDT), and Thursday, June 3, 1999 from 8:30 am to 12 noon EDT. The stakeholders conference call will be held 10:00 am to 2:00 pm Pacific Daylight Time (PDT).

ADDRESSES: The meetings will be held in 6226 Ario Rios Building, which is at 1200 Pennsylvania Avenue, NW. To register for the meeting or conference call, please contact the Safe Drinking Water Hotline at 1–800–426–4791 or 703–285–1093 between 9:00 a.m. and 5:30 p.m. EDT. Members of the public who cannot attend the meeting in person may choose to participate via conference call in either the day-and-a-half or the half-day meeting and should register with the Safe Drinking Water Hotline by Monday, May 24, 1999 in order to receive copies of the overheads in advance. The limited numbers of available lines will be given on a first-come, first-served basis to people who register with the Hotline. Please provide your name, organization, title, mailing address, telephone number, facsimile number, e-mail address and telephone number for EPA to connect the caller via conference call [if applicable] for the ''Arsenic meeting.''

FOR FURTHER INFORMATION CONTACT: For general information on meeting logistics, to register, and to submit comments on the half-day agenda, please contact the Safe Drinking Water Hotline at 1–800–426–4791. EPA is planning to make short presentations during the half-day conference call, leaving time for facilitated discussion of issues. Registrants can submit suggested changes to the half-day format or topics to the Hotline. For information on the activities related to developing the NPDWR for arsenic, contact the Safe Drinking Water Hotline at 1–800–426–4791, or visit the EPA Office of Ground Water and Drinking Water's drinking water standards webpage at http://www.epa.gov/safewater/ars/arsenic.html, which contains electronic copies of the discussion papers from the previous stakeholders meetings. Registrants must take care of their own hotel arrangements. The Holiday Inn National Airport at 1489 Jefferson Davis Highway in Arlington, Virginia will hold a block of 30 rooms until May 10th at the rate of $131.70. Call the Holiday Inn at (703)–416–1600 by May 10, to reserve a room and mention ''EPA Arsenic'' to get the special rate.

SUPPLEMENTARY INFORMATION:

A. Background

Arsenic is a naturally occurring element found in the human body and is present in food, water, and air. Arsenic in drinking water occurs in ground water and surface water and is associated with certain natural geologic conditions, as well as with contamination from human activities. Arsenic ingestion is linked to skin cancer, internal cancers, and non-cancer effects such as cardiovascular effects and diabetes.

In 1975 EPA issued a National Interim Primary Drinking Water Regulation for arsenic at 50 parts per billion (ppb; micrograms per liter, μg/L). Under the 1986 amendments to SDWA, Congress converted the interim values into National Primary Drinking Water Regulations (NPDWRs) for 83 contaminants, including arsenic, that were to be revised by 1989. EPA held internal workgroup meetings throughout 1994, addressing risk assessment, treatment, analytical methods, arsenic occurrence, exposure, costs, implementation issues, and regulatory options before deciding in early 1995 to defer the regulation in order to better characterize health effects.

On August 6, 1996, Congress amended the SDWA, adding section 1412(b)(12)(A) which requires, in part, that EPA propose a NPDWR for arsenic by January 1, 2000 and issue a final regulation by January 1, 2001. The current maximum contaminant level

(MCL) of 50 µg/L remains in effect until the effective date of the revised rule.

The 1996 amendments to the SDWA also directed EPA to develop by February, 1997, a comprehensive arsenic research plan to assess health risks associated with exposure to low levels of arsenic. In December 1996, EPA announced the availability of the draft arsenic research plan, and the public had an opportunity to comment on the draft plan at a scientific peer review meeting in January, 1997. EPA's final arsenic research plan responded to the comments of the peer review, and it is available on the Office of Research and Development (ORD) webpage at *www.epa.gov/ORD/WebPubs/final/arsenic.pdf*. In conducting the studies in the arsenic research plan, EPA is consulting with the National Academy of Sciences, other Federal agencies, and other interested public and private parties.

EPA asked the National Research Council (NRC) of the National Academy of Sciences (NAS) to review the current state of the science for estimating risks associated with arsenic in drinking water. NAS released the prepublication version of the NRC report, ''Arsenic in Drinking Water'' on March 23, 1999. The NRC report recommends lowering the current drinking water standard of 50 µg/L. This recommendation is based on NRC assessments of the risks of skin, lung, and bladder cancer from drinking water containing inorganic arsenic. NAS has put up their press statement and the full NRC report on its website.

Press release: http://www2.nas.edu/whatsnew/29e6.html

Full report: *http://www.nap.edu/readingroom/enter2.cgi?0309063337.html*

B. Request for Stakeholder Involvement

EPA intends for the proposed NPDWR for arsenic to incorporate the best available science, risk assessment, treatment technologies, occurrence data, cost/benefit analyses, and stakeholder input on technical and implementation issues.

The stakeholders meetings will cover a broad range of issues including: (1) regulatory process, including risk management decisions; (2) arsenic risk assessment and characterization (exposure, health assessment, NRC report, national occurrence); (3) key technical analyses (treatment technologies, treatment residuals, cost, analytical methods, co-occurrence of contaminants); (4) small system concerns; and (5) stakeholder involvement. Background materials on arsenic in drinking water issues will be sent in advance of the meetings to those who register with the Safe Drinking Water Hotline by Monday, May 24, 1999.

EPA has announced these public meetings to hear the views of stakeholders on EPA's plans for activities to develop a NPDWR for arsenic. The public is invited to provide comments on the issues listed above and other issues related to the arsenic in drinking water regulation during the June 2–3, 1999 meetings, via comments submitted to the Hotline, and during future opportunities for stakeholder participation.

C. Draft Agenda for the Arsenic in Drinking Water Meeting (Meeting Times Shown in EDT)

Wednesday, June 2, 1999

8:00–8:45 Registration & Phone Linkups
8:45–9:00 Introductions & Meeting Logistics—facilitator
9:00–9:15 Welcome and Opening Remarks—Bill Diamond, Director, Standards and Risk Management Division, Office of Ground Water and Drinking Water
9:15–9:35 Arsenic Regulatory Review
Presentation and Questions—Irene Dooley, Office of Ground Water and Drinking Water (OGWDW)
9:35–10:05 Analytical Methods and Development of the PQL
Presentation—Wynne Miller, OGWDW
Facilitated Discussion for Stakeholder Input
10:05–10:20 Break
10:20–12:00 National Research Council/National Academy of Sciences (NRC/NAS) Report Findings and Application
Presentation—Dr. Jeanette Wiltse, Director, Health and Ecological Criteria Division, OST
Facilitated Discussion for Stakeholder Input
12:00–1:00 LUNCH (on your own)
1:00–1:45 Risk Characterization and MCLG Development
Presentation—Dr. Charles Abernathy, Office of Science & Technology (OST)
Facilitated Discussion for Stakeholder Input
1:45–2:15 Arsenic Research Plan Update
Presentation and Questions—Lynn Papa, National Center for Environmental Assessment (NCEA), ORD
2:15–2:30 Break
2:30–3:15 EPA's Health Effects Research
Presentations—Dr. Herman Gibb, NCEA, ORD
Dr. Fred Hauchman, National Health and Environmental Effects Research Laboratory (NHEERL), ORD
Facilitated Discussion for Stakeholder Input
3:15–4:15 National Occurrence Estimate
Presentation—Jennifer Wu, OGWDW
Facilitated Discussion for Stakeholder Input
4:15–5:00 Arsenic Treatment Technologies and Residuals
Presentation—Tom Sorg, EPA's National Risk Management Research Laboratory (NRMRL), Office of Research and Development (ORD)
5:00 End of first day's session

Thursday, June 3, 1999

8:30–8:40 Phone Linkups
8:40–9:40 EPA's Approach to Compliance Forecasts—Decision Tree
Presentations—Amit Kapadia and Jeff Kempic, OGWDW
Facilitated Discussion for Stakeholder Input
9:40–10:00 Treatment Variances and Exemptions
Presentations—Amit Kapadia and Jeff Kempic, OGWDW
Facilitated Discussion for Stakeholder Input
10:00–10:15 Break
10:15–11:15 Cost-Benefit Regulatory Issues
Presentations—Ben Smith, Dr. John Bennett, OGWDW
Facilitated Discussion for Stakeholder Input
11:15–11:45 Monitoring and State Implementation Issues
Presentation—Ed Thomas, OGWDW
Facilitated Discussion for Stakeholder Input
11:45–12:00 Next Steps
Presentation—Jim Taft, OGWDW
12:00 EDT Adjourn

D. Draft Agenda for the Arsenic in Drinking Water Conference Call (Conference call times listed in Pacific Daylight Time (PDT), and bracketed in Eastern Daylight Time (EDT))

Thursday, June 3, 1999

10:00–10:10 PDT Phone linkups (1pm EDT)
10:10–10:20 PDT Introductions and negotiated changes to agenda (1:10–1:20 EDT)
10:20–10:40 PDT Arsenic regulatory review (1:20–1:40 EDT)
10:40–11:40 PDT National Research Council/National Academy of Sciences Report Findings and Application (1:40–2:40 pm EDT)
11:40–12:00 PDT Arsenic Research Plan and EPA Health Effects Research (2:40–3 pm EDT)

12:00–12:15 PDT Break (3 pm EDT)
12:15–12:45 PDT National Occurrence Estimate (3:15–3:45 pm EDT)
12:45–1:15 PDT Compliance Forecasts (3:45–4:15 pm EDT)
1:15–1:45 PDT Cost-Benefit Issues (4:15–4:45 pm EDT)
1:45–2:00 PDT Monitoring and Implementation (4:45–5:00 pm EDT)
2:00 PDT Adjourn (5 pm EDT)

Dated: April 26, 1999.

Cynthia C. Dougherty,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 99–10856 Filed 4–29–99; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6331–5]

Proposed CERCLA Administrative Agreement; Li Tungsten Superfund Site, Glen Cove, Nassau County, NY

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: Consistent with EPA's May 24, 1995 ''Guidance on Agreements with Prospective Purchasers of Contaminated Property,'' notice is hereby given of a proposed prospective purchaser agreement (''agreement'') with the Glen Cove Industrial Development Agency (''IDA'') concerning parcels of real property which include the Li Tungsten Superfund Site in Glen Cove, Nassau County, New York (the ''Properties''). The IDA intends to purchase the Properties. Under the agreement, the IDA will make an initial payment of $100,000 to the Hazardous Substances Superfund, to be followed by possible subsequent payment(s) to the Superfund in an amount to be determined based on future proceeds received by the IDA from disposition of the Properties. These payments will be made in exchange for a covenant not to sue pursuant to sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a). By publication of this Notice, a fifteen (15) day period has been established in which the United States will accept written comments relating to the agreement. The United States will consider all comments received and may modify or withdraw its consent to the agreement if comments received disclose facts or considerations which indicate that the agreement is inappropriate, improper, or inadequate. The United States' response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region II, Superfund Records Center, 290 Broadway, 18th Floor, New York, NY 10007–1866.

DATES: Comments must be submitted on or before May 17, 1999.

ADDRESSES: The proposed agreement is available for public inspection at the U.S. Environmental Protection Agency, Region II, Superfund Records Center, 290 Broadway, 18th Floor, New York, NY 10007–1866. A copy of the proposed agreement may also be obtained from the individual listed below. Comments should reference the Li Tungsten Superfund Site, Glen Cove, New York and EPA Index No. CERCLA–02–99–2008, and should be addressed to the individual listed below.

FOR FURTHER INFORMATION CONTACT: James Doyle, Assistant Regional Counsel, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, Region II, 290 Broadway, 17th Floor, New York, NY 10007–1866, Telephone: (212) 637–3165.

Dated: April 13, 1999.

William J. Muszynski,

Regional Administrator, Region II.

[FR Doc. 99–10626 Filed 4–29–99; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6332–5]

Notice of Proposed Administrative Order on Consent Pursuant to Section 122(g) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), Osage Metals Superfund Site, Kansas City, KS, Docket No. CERCLA–7–99–0014

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed administrative order on consent, Osage Metals Superfund Site, Kansas City, Kansas.

SUMMARY: Notice is hereby given that a proposed administrative order on consent regarding the Osage Metals Superfund Site, was signed by 40 private parties, approved by the United States Department of Justice (DOJ) on March 23, 1999, and signed by the United States Environmental Protection Agency (EPA) on March 31, 1999.

DATES: EPA will receive, comments relating to the proposed agreement and covenant not to sue until June 1, 1999.

ADDRESSES: Comments should be addressed to Audrey Asher, Senior Assistant Regional Counsel, United States Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101 and should refer to *the Osage Metals Superfund Site Administrative Order on Consent, EPA Docket No. CERCLA–7–99–0014.*

The proposed agreement may be examined or obtained in person or by mail at the office of the United States Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, KS 66101 (913) 551–7255.

SUPPLEMENTARY INFORMATION: The proposed agreement concerns the 1.7-acre Osage Metals Superfund Site (''Site''), located at 120 Osage Avenue in Kansas City, Kansas. The Site was the location of metals salvage and reclamation facilities between 1948 and 1993. Samples taken at the Site in 1994 found polychlorinated biphenyls (''PCBs'') in surface soils at levels as high as 334 mg/kg, and lead contamination in levels as high as 56,600 mg/kg. The EPA approved a removal action at the Site on February 13, 1995, and began cleanup in March of 1995. EPA completed its work in October 1995. No further response action is anticipated.

As of May 31, 1998 EPA and DOJ had incurred costs in excess of $1.3 million exclusive of interest. Each of the proposed settlors arranged for disposal of capacitors contaminated with PCBs with PCB Treatment, Inc. PCB Treatment, Inc., then arranged for disposal at the Site of scrap metal from the capacitors.

EPA has determined that any party who arranged for disposal of between 206 and 89.387 pounds of capacitors contributed a *de minimis* volume of waste to the Site and that such wastes are not more toxic than any other hazardous substance at the Site.

Each settlor will pay a share of costs based on its volumetric share of capacitor weight compared to all capacitor weight with an additional premium.

Through this settlement EPA will recover over $30,000. EPA has recovered $80,000 through a consent decree with the former owner/operator and over $233,399 through Administrative Orders on Consent with other potentially responsible parties at the Site. Negotiations of other settlements with potentially responsible parties are pending.

Dated: April 14, 1999.

William Rice,

Acting Regional Administrator, Region VII.

[FR Doc. 99–10627 Filed 4–29–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections being Reviewed by the Federal Communications Commission

April 22, 1999.

SUMMARY: The Federal Communications Commissions, 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, Pub. L. 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 June 29, 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 Commission, 445 12th Street, SW, Room 1-A804, 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: 3060–0329.

Title: Equipment Authorization—Verification, 47 CFR 2.955.

Form Number: N/A.

Type of Review: Extension of currently approved collection.

Respondents: Businesses or other for-profit entities.

Number of Respondents: 5,655.

Estimated time per response: 18 hours.

Total Annual Burden: 101,790.

Total Annual Cost: $200.

Needs and Uses: The commission rules require verification of compliance to established technical standards for certain Part 15 and Part 18 devices. Technical data is gathered and retained by the equipment manufacturers in order to verify compliance with these regulations. The information may be used to determine that the equipment marketed complies with the applicable Commission rules and that the operation of the equipment is consistent with the initially documented test results. The information is essential to controlling potential interference to radio communications.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–10800 Filed 4–29–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1271–DR]

Georgia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Georgia (FEMA–1271–DR), dated April 20, 1999, and related determinations.

EFFECTIVE DATE: April 20, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 20, 1999, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Georgia, resulting from severe storms and tornadoes on April 15, 1999, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended (''the Stafford Act'').

I, therefore, declare that such a major disaster exists in the State of Georgia.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Hazard Mitigation in the designated areas and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs.

If Public Assistance is later requested and warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Michael J. Polny of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Georgia to have been affected adversely by this declared major disaster:

Dooly County for Individual Assistance.

All counties within the State of Georgia are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

James L. Witt,

Director.

[FR Doc. 99–10839 Filed 4–29–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1270–DR]

Missouri; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Missouri (FEMA–1270–DR), dated April 20, 1999, and related determinations.

EFFECTIVE DATE: April 20, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 20, 1999, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Missouri, resulting from severe storms and flooding on April 3, 1999, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P. L. 93–288, as amended (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of Missouri.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Hazard Mitigation in the designated areas and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Public Assistance is later requested and warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Curtis D. Musgrave of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Missouri to have been affected adversely by this declared major disaster:

Madison County for Individual Assistance.

All counties within the State of Missouri are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

James L. Witt,

Director.

[FR Doc. 99–10837 Filed 4–29–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1270–DR]

Missouri; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Missouri (FEMA–1270–DR), dated April 20, 1999, and related determinations.

EFFECTIVE DATE: April 14, 1999.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective April 14, 1999.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 99–10838 Filed 4–29–99; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

[Docket No. 99–08]

Classic International, Inc. Young Hee Ko d/b/a World Transport, Young Hee Ko, Individually, and Chris Miller, Individually; Notice of Filing of Complaint And Assignment

Notice is given that a complaint filed by Classic International, Inc., (''Complaint'') against Young Hee Ko d/b/a World Transport, Young Hee Ko, and Chris Miller (''Respondents''), was served April 22, 1999. Complainant alleges that Respondents violated sections 10(a)(1) and (d)(1) of the Shipping Act of 1984, 46 U.S.C. app. §§ 1709(a)(1) and (d)(1), by refusing to remit payment for ocean shipping charges and inducing Complainant to release its lien by presenting a check, which was subsequently returned for insufficient funds.

This proceeding has been assigned to the office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by April 24, 2000, and the final decision of the Commission shall be issued by August 22, 2000.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–10825 Filed 4–29–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

AOT Freight Systems, Ltd., 5430 West Rosecrans Avenue, Hawthorne, CA 90250, Officers: Rolf Bruns, President, Kenji Nishizawa, Vice President

BM&P International, Inc., 2150 B East College Avenue, Cudahy, WI 53110, Officers: William C. Brumder, President, James P. Connelly, Secretary.

Dated April 27, 1999.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–10826 Filed 4–29–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573

Certified Transportation Group, Inc. 195 Oval Drive, Islandia, NY 11722; Officers: William McNamara, President, Joseph McNamara, Vice President

Inter-Maritime Forwarding Co. (San Francisco), Inc. d/b/a Cosdel, 55 New Montgomery Street, Suite 400, San Francisco, CA 94105; Officers: Robert B. Mann, Chairman & CEO, Howard B. Mann, President.

Dated: April 27, 1999.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–10886 Filed 4–29–99; 8:45 am]

BILLING CODE 6730–01–M

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 May 27, 1999.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. BB&T Corporation, Winston-Salem, North Carolina; to merge with Mason-Dixon Bancshares, Inc., Westminster, Maryland, and thereby indirectly acquire Carroll County Bank and Trust Company, Westminster, Maryland, and Bank of Maryland, Towson, Maryland.

In connection with this application, Applicant also has applied to acquire Bay Insurance, LLC, Baltimore, Maryland, and thereby engage in credit related insurance, pursuant to §§ 225.28(b)(11)(i) and 225.28(b)(11)(ii) of Regulation Y, Rose Shanis Financial Services, LLC, Baltimore, Maryland, and thereby engage in lending activities, pursuant to § 225.28(b)(1) of Regulation Y.

In connection with this application, Applicant also has requested permission to exercise an option that would enable BB&T Corporation to acquire up to 19.9 percent of the voting securities of Mason-Dixon Bancshares, Inc., under certain circumstances.

Board of Governors of the Federal Reserve System, April 27, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–10904 Filed 4–29–99; 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: 10:00 a.m., Wednesday, May 5, 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 matters 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: April 28, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–10965 Filed 4–28–99; 10:33 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of a Meeting of the National Bioethics Advisory Commission (NBAC)

SUMMARY: Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is given of a meeting of the National Bioethics Advisory Commission. The Commission will address (1) research involving human embryonic stem cells

and (2) the use of human biological materials in research. Some Commission members may participate by telephone conference. The meeting is open to the public and opportunities for statements by the public will be provided on May 11, 1999 from 11:30 am to 12 noon.

Dates/Times	Location
May 11, 1999, 8:00 am–5:00 pm.	The Grand Ballroom, Hilton Northbrook Hotel, 2855 N. Milwaukee Avenue, Northbrook, IL.
May 12, 1999, 8:00 am–12 Noon.	Same Location as Above.

SUPPLEMENTARY INFORMATION: The President established the National Bioethics Advisory Commission (NBAC) on October 3, 1995 by Executive Order 12975 as amended. The mission of the NBAC is to advise and make recommendations to the National Science and Technology Council, its Chair, the President, and other entities on bioethical issues arising from the research on human biology and behavior, and from the applications of that research.

Public Participation

The meeting is open to the public with attendance limited by the availability of space on a first come, first serve basis. Members of the public who wish to present oral statements should contact Ms. Patricia Norris by telephone, fax machine, or mail as shown below and as soon as possible at least 4 days before the meeting. The Chair will reserve time for presentations by persons requesting to speak and asks that oral statements be limited to five minutes. The order of persons wanting to make a statement will be assigned in the order in which requests are received. Individuals unable to make oral presentations can mail or fax their written comments to the NBAC staff office at least five business days prior to the meeting for distribution to the Commission and inclusion in the public record. The Commission also accepts general comments at its website at bioethics.gov. Persons needing special assistance, such as sign language interpretation or other special accommodations, should contact NBAC staff at the address or telephone number listed below as soon as possible.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Norris, National Bioethics Advisory Commission, 6100 Executive Boulevard, Suite 5B01, Rockville, Maryland 20892–7508, telephone 301–402–4242, fax number 301–480–6900.

Dated: April 26, 1999.

Eric M. Meslin,

Executive Director, National Bioethics Advisory Commission.

[FR Doc. 99–10817 Filed 4–29–99; 8:45 am]

BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 64 FR 17674–17675, dated April 12, 1999) is amended to reflect the restructuring of the Human Resources Management Office, Office of Program Support, Centers for Disease Control and Prevention (CDC).

Section C–B, Organization of Functions, is hereby amended as follows:

Delete the functional statement for the *Human Resources Management Office (CA57)* and insert the following:

(1) Provides service, support, advice, and assistance to CDC organizations, management, and employees in all areas of human resources management; (2) conducts and coordinates personnel management for CDC's civil service and Commissioned Corps personnel; (3) conducts CDC's fellowship programs; (4) develops and issues policies and procedures; conducts recruitment, special emphasis, staffing, position classification, position management, pay administration, performance management systems, employee training and development, and labor relations programs; (5) maintains personnel records and reports, and processes personnel actions and documents; (6) administers the Federal life and health insurance programs; (7) administers the employee recognition, suggestion, and incentive awards programs; (8) furnishes advice and assistance in the processing of Office of Workers' Compensation Program claims; (9) conducts CDC's personnel security and substance abuse programs; (10) develops, maintains, and supports information systems to conduct personnel activities and provide timely information and analyses of CDC personnel and staffing to CDC management and employees; (11) maintains liaison with the Department of Health and Human Services (HHS) and the U.S. Office of Personnel Management (USOPM) in the area of human resources management; and (12) administers the National Performance Review and Human Resources initiatives to meet current and future requirements.

Delete the functional statement for the *Office of the Director (CA571)* and insert the following:

(1) Provides leadership and technical guidance to CDC in planning, coordinating, and conducting an effective personnel program for civil service (including the Senior Biomedical Research Service [SBRS] and the Senior Executive Service [SES]), Title 38, Commissioned Corps, and fellowship program personnel; (2) plans, directs, and evaluates the activities of the Human Resources Management Office (HRMO); (3) advises the Director, CDC, and other CDC management staff on all matters relating to human resources management; (4) administers the National Performance Review and Human Resources initiatives; (5) develops, coordinates, and disseminates personnel policies, programs, and procedures in position management, classification, compensation, and staffing; (6) establishes objectives, standards, and internal controls; evaluates, analyzes, and makes recommendations to improve personnel authorities, policies, systems, operations, and procedures; (7) develops and monitors proposals and plans related to the implementation of CDC diversity personnel programs and projects; assists with monitoring progress and the success of existing diversity recruitment and placement programs; and (8) provides all administrative/management support as required in HRMO.

Delete in its entirety the title and functional statement for the *Administrative Services Activity (CA5712).*

Delete in its entirety the title and functional statement for the *Information Management Staff (CA5713).*

Delete in its entirety the title and functional statement for the *Policy and Executive Management Staff (CA5714).*

Delete the title and functional statement for the *Work Force Relations Branch (CA572)* and insert the following:

Work Force Relations and Partnership Branch (CA572). (1) Plans, develops, and provides consultation, guidance, and technical advice on available employee services and assistance; performance, award, and conduct

issues; leave administration; on-the-job injuries and exposures to infectious diseases; debt complaints; and other job-related issues; (2) develops and administers labor-management and employee relations program including disciplinary actions, grievances and appeals, labor negotiations, collective bargaining, management representation before third parties, and partnership activities; (3) serves as liaison with the Office of Health and Safety and other CDC staff for personnel matters relating to substance abuse and other employee assistance programs; (4) coordinates the Fare Share and Dependent Care programs; (5) coordinates all Family Friendly programs; (6) administers the incentive and suggestion awards programs; (7) coordinates and processes garnishment, child support, and other collection actions for CDC employees; (8) serves as the primary agency contact on all matters associated with labor-management relations; (9) plans, directs, coordinates, and conducts contract negotiations on behalf of agency management with labor organizations holding exclusive recognition; (10) represents management in third party proceedings involving labor and employee relations issues; (11) serves as the authority to ensure validity, consistency, and legality of employee relations matters concerning grievances (both negotiated and agency procedures), disciplinary actions, adverse actions, and resultant third party hearings; (12) plans and coordinates all programmatic activities to include preparation of disciplinary and adverse action letters and all final agency decisions in grievances and appeals; (13) provides technical advice, consultation, and training on matters of employee conduct and performance and provides personnel services on debt complaints; (14) serves as the authority and primary agency contact on all matters associated with labor-management partnership activities; (15) provides consultation, guidance, and technical advice to personnel generalists, managers, and employees on all family programs; (16) develops, implement, and coordinates CDC Quality of Work Life initiatives; (17) provides personnel services relating to on-the-job injuries and exposures to infectious diseases; and (18) develops, implements, and coordinates performance management systems for civil service employees other than SES and SBRS.

Delete in its entirety the title and functional statement for the *Performance Management and Incentive Awards Section (CA5724).*

Delete in its entirety the title and functional statement for the *Employee and Labor Relations Section (CA5725).*

Delete in its entirety the title and functional statement for the *Employee Assistance and Payroll Liaison Section (CA5726).*

Delete the title and functional statement for the *Training and Career Development Branch (CA573)* and insert the following:

Organizational Development Branch (CA573). (1) Develops, designs, and implements an accredited comprehensive strategic human resource leadership development and career management program for all occupational series throughout CDC; (2) develops and implements training strategies and activities that contribute to the agency's mission, accomplishments, and organizational performance; (3) integrates a variety of learning methods to provide training; (4) provides consultation, guidance and technical assistance to managers and employees in organizational development, career management, employee development, and training; (5) coordinates the research and acquisition of external training and educational opportunities for CDC employees; (6) conducts the career counseling program; (7) administers special career management programs including the career development program, the long-term training program, cooperative programs, the worker trainee development program, and the mentoring program; (8) conducts comprehensive training needs assessment of CDC employees nationwide; and (9) conducts new employee orientation.

Career Management Section (CA5732). (1) Develops and administers agency intern and professional development programs; (2) provides consultation, guidance, and technical assistance to managers and employees regarding career management and employee development; (3) implements and provides advice on distance-learning programs nationwide; (4) acquires, develops, and supports technology-based training; (5) manages the Learning Resource Center including establishing policy, scheduling room usage, providing technical and audio visual support, and maintaining a Learning Library with individualized learning options; (6) creates marketing tools for the Organizational Development Branch; (7) implements and monitors the CDC Training Management System for compliance with the Government Employees Training Act; (8) maintains employee training records; (9) collaborate with the CDC Corporate University Section to develop, implement, and administer the human resources leadership development and career management program for all occupational series throughout CDC; (10) manages formal career development and mentoring programs; (11) procures and/or instructs training courses as part of existing functional area curriculum; (12) establishes partnerships with professional organizations and academic institutions for the formalization and recognition of CDC programs and the offering of academic programs onsite and through distance learning; and (13) manages the use of technology to offer desktop instruction through web-based training, e.g., interactive CD–ROM.

CDC Corporate University Section (CA5733). (1) Develops, designs, and implements a comprehensive strategic human resources leadership development and career management program for all occupational series throughout CDC; (2) develops formal organizational and individual needs assessment tools to identify core competency requirements for each occupational series throughout the agency; (3) designs curricula that address specified competencies to inculcate continuous learning; (4) develops program plans and evaluates progress toward program goals and objectives; (5) conducts performance measurement, organizational climate surveys, and survey/focus group assessments; (6) develops internal instructor capacity; (7) provides analysis and data to correlate individual training with corporate strategic plans; (8) maximizes economies of scale through systematic planning and evaluation of agency-wide training initiatives; (9) develops new methodology to determine return on investment on human capital and intellectual investment; (10) designs executive leadership programs in collaboration with CDC C/I/Os; (11) develops agency-wide intern programs for succession planning of staffing requirements; and (12) develops and maintains continuing education unit accreditation for school curricula.

Field Operations Branch (CA574). (1) Plans, develops, directs, coordinates, implements, and evaluates human resources management programs, policies, procedures, and systems; (2) participates in the development of CDC HRMO policy, strategic, long- and short-range plans, programs, and resource allocations; (3) serves as the primary contact for HRMO remote/field operations providing a full range of personnel management, advisory consulting, and information services; (4)

provides leadership, technical direction, and guidance in human resource utilization, program development and evaluation; organizational development, position management, classification and pay administration; employment, recruitment, and staffing; employee/labor/partnership relations; benefits and services; performance management, awards, training and employee development; transactions, personnel records, and files management; (5) coordinates HRMO remote/field operations with Headquarter's staff and other CDC, HHS, Federal, State, local, and private organizations; (6) develops annual staffing and recruitment plans, special recruitment campaigns, crediting plans, announcements, advertisements, and special information materials; (7) conducts position management studies, desk audits, qualifications analyses, peer review panels, training assessments, and reductions-in-force; (8) determines title, series, and grade of positions; qualifications, rating, and ranking of applicants; and (9) executes performance, awards, training, labor relations, merit promotion, delegated examining, summer student, fellowship and special emphasis plans; appointing and classification authority; keys, journalizes and files transactions.

Delete the title and functional statement for the *Central Staffing Activity (CA5756)* and insert the following:

Central Staffing Section (CA5756). (1) Implements a centralized staffing and placement program; (2) administers the delegated examining authority, the direct hiring authority, and the temporary limited appointment authority granted by USOPM; (3) oversees the overall staffing process and insures quality control; (4) reviews, evaluates, and makes recommendations on the application and implementation of the USOPM delegated authorities and merit promotion program rules and regulations; (5) provides guidance and consultation in job analyses and in development of knowledge/skills/abilities (KSAs) crediting plans; and (6) manages various staffing programs such as the CDC summer program, the Voluntary Employee Referral Program, the Interagency Career Transition Assistance Program, and the Career Transition Assistance Program.

Delete the functional statement for the *Technical Services Section (CA5757)* and insert the following:

(1) Provides central personnel services and assistance in the areas of employee benefits, personnel action processing, data quality control/assessment, and files/records management; (2) serves as liaison between CDC and the HHS payroll office resolving discrepancies with pay and leave; (3) administers the leave donor program and processes time and attendance amendments; (4) provides policy guidance and technical advice and assistance on retirement, the Thrift Savings Plan, health/life insurance, and savings bonds; (5) codes and finalizes all personnel actions in the automated personnel data system; (6) assists with new employee orientation; (7) establishes and maintains the official personnel files system and administers personnel records storage and disposal program; (8) responds to employment verification inquiries; (9) administers the personnel security program; (10) initiates suitability background checks and fingerprints for all CDC personnel; and (11) provides assistance in the implementation of the HHS Plan for a Drug Free Workplace.

Information Technology and Analysis Branch (CA576). (1) Develops strategic plans for information technology and information systems to support CDC's and HRMO's personnel information requirement; (2) acquires and implements appropriate technology and develops information systems to meet CDC-wide information needs on personnel, staffing, and work force characteristics and trends; (3) provides support to HRMO organizations and users in achieving automation of functions and use of information technology and systems; (4) develops, manages, and supports centralized information technology and systems in support of personnel activities, including the HHS personnel system; (5) researches and develops new sources of personnel information and access methods including computer-based CDC-wide surveys; (6) coordinates HRMO information resource management activities with IRMO and CDC information resource management committees; (7) conducts demographic analysis of the CDC work force and publishes results in management reports; and (8) develops methodologies to assess the impact of revised personnel policies and practices on the work force.

Delete the title and functional statement for the *Recruitment Branch (CA577)* and insert the following:

Outreach and Marketing Branch (CA577). (1) Develops and implements human resource management marketing campaigns; (2) provides leadership in identifying the Centers/Institute/Offices' (CIOs) recruiting needs, and assesses, analyzes, and develops CDC's short- and long-range recruitment plans to meet these needs; (3) provides consultation, guidance, and technical advice on recruitment and special emphasis policies, practices, and procedures, including search committees; (4) strategizes on the best approach to recruitment at specific events, and designs and develops recruitment materials for events; (5) maintains and manages the Automated Applicant Listing System (AALS/Resumix) for storage and retrieval of applications of those individuals with education and experience appropriate for commonly needed and hard-to-fill positions; coordinates, with CIOs, the referral of appropriate candidates from the applicant pool for position vacancies; (6) provides leadership on recruitment activities through the development of policies and practices for effective communication of HRMO programs, coordinates the development and dissemination of information among HRMO and the CIOs, provides training and technical assistance to CIO staff; (7) manages and operates the CDC Job Information Center, including the automated telephone job line; (8) markets and manages special emphasis programs including the Program for Persons with Disabilities and the Disabled Veterans Affirmative Action Program, the Veterans Readjustment Appointment Program, the Federal Equal Opportunity Recruitment Program, and college relations and student employment programs; and (9) provides leadership in assessing progress in achieving overall staffing, EEO, and Affirmative Action goals.

Dated: April 19, 1999.

Jeffrey P. Koplan,

Director.

[FR Doc. 99–10820 Filed 4–29–99; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. ACF/ACYF/RHYP 99–1]

Administration on Children, Youth and Families; Runaway and Homeless Youth Program (RHYP): Fiscal Year (FY) 1999 Final Program Priorities, Availability of Financial Assistance for Fiscal Year 1999 and Request for Applications for FY 1999

AGENCY: Family and Youth Services Bureau (FYSB), Administration on Children, Youth and Families (ACYF), Administration for Children and

Families (ACF), Department of Health and Human Services (HHS).

ACTION: Notice of fiscal year 1999 Final Runaway and Homeless Youth (RHY) Program Priorities, announcement of availability of financial assistance and request for applications for FY 1999 Basic Center Program for Runaway and Homeless Youth (BCP), FY 1999 Training and Technical Assistance Cooperative Agreements (T&TA) and FY 2000 Transitional Living Program for Homeless Youth (TLP).

SUMMARY: The Administration on Children, Youth and Families is publishing final program priorities and announcing the availability of funds for the Basic Center Program for Runaway and Homeless Youth; Transitional Living Program for Homeless Youth and Training and Technical Assistance Cooperative Agreements.

Deadlines: The deadlines for RECEIPT by DHHS of applications for new grants under this announcement are as follows:

Competitive grant area	Deadline dates	Deadline times
BCP	June 25, 1999	4:30 p.m. (EDT).
TLP	June 28, 1999	4:30 p.m. (EDT).
T&TA	June 25, 1999	4:30 p.m. (EDT).

Mailing and Delivery Instructions: Mailed applications and applications hand delivered by applicants, applicant couriers, overnight/express mail couriers or any other method of hand delivery shall be considered as meeting an announced deadline if they are received on or before the deadline, at the: ACYF Operations Center, 1815 North Fort Myer Drive, Suite 300, Arlington, VA 22209, Telephone: 1–800–351–2293.

Applications may be hand delivered to the above address between the hours of 8:00 a.m. and 4:30 p.m. (EDT), Monday through Friday (excluding Federal Holidays).

Applicants are responsible for mailing and delivering applications well in advance of deadlines to ensure that the applications are received on time. Applications received after 4:30 p.m. (EDT) on the deadline date will be classified as late. Postmarks and other similar documents do not establish receipt of an application.

ACF will not accept applications delivered by fax, regardless of date or time of submission and receipt.

Late Applications. Applications which do not meet the criteria stated above and are not received by the deadline date and time are considered late applications. The Administration for Children and Families (ACF) will notify each late applicant that its application will not be considered in the current competition.

Extension of Deadline. ACF may extend an application deadline for applicants affected by acts of God such as floods and hurricanes, or when there is widepsread disruption of the mails. A determination to waive or extend deadline requirements rests with the Chief Grants Management Officer.

FOR FURTHER INFORMATION: This program announcement contains all the necessary information and application materials to apply for funds. Additional information and copies of this announcement can be obtained by contacting the Administration on Children, Youth and Families, Family and Youth Services Bureau, Program Announcement, 1815 North Fort Myer Drive, Suite 300, Arlington, VA. 22209; Telephone: 1–800–351–2293. You may also locate a copy of this program announcement on the FYSB website at http://www.acf.dhhs.gov/programs/FYSB under Policy and Funding Announcements. Copies of the announcement have been sent to all current FYSB grantees, all organizations that applied for FYSB grant awards in FY 98 and all individuals and organizations that asked to be placed on the mailing list for FY 99. Information about all the programs funded by FYSB may be found on the FYSB homepage under Programs and on the National Clearinghouse on Families and Youth website at http://www.ncfy.com.

SUPPLEMENTARY INFORMATION: Grant awards of FY 1999 funds will be made by September 30, 1999 for the Basic Center Program and the Training and Technical Assistance Cooperative Agreements. The awards for the Transitional Living Program will be made with FY 2000 funds after October 1, 1999.

The estimated funds available for new starts and the approximate number of new grants that may be awarded under this program announcement are as follows:

Competitive grant area	New start funds available ($ millions)	Estimated number of new grants
BCP	$10.4	105)
TLP	7	35
T&TA	2	10

In addition to the new start grants, the Administration for Children and Families has provided for 11 Street Outreach Program supplements and non-competitive continuation funds to current grantees in the following programs:

Program	Funds available ($ millions)	Number of grants
BCP	$28.4	243
SOP	13.3	128
TLP	6.7	43

Applicants are advised to read all parts of this announcement prior to developing a grant application. This outline is provided to assist in the review of the program announcement:

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D. ACF Hub/Regional Structure
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Part I. General Information

A. Background on Runaway and Homeless Youth

The Family and Youth Services Bureau (FYSB), within the Administration on Children, Youth and Families (ACYF), administers programs that support services to an adolescent population of runaway, homeless and street youth. Estimates of this population vary from 500,000 to 1.3 million. Many of these youth have left home to escape abusive situations or because their parents could not meet their basic needs for food, shelter and a safe supportive environment. Many live on the streets.

While living on the streets or away from home without parental supervision, these youth are highly vulnerable. They may be exploited by dealers of illegal drugs, or become victims of street violence or members of gangs which provide protection and a sense of extended family. They may be drawn into shoplifting, survival sex or dealing drugs in order to earn money for food, shelter, clothing and other daily expenses. They often drop out of school, forfeiting their opportunities to learn and to become independent, self-sufficient, contributing members of society.

On the street, these youth may try to survive with little or no contact with medical professionals, the result being that health problems may go untreated and worsen. Without the support of family, schools and other community institutions, they may not acquire the personal values and work skills that will enable them to enter or advance in the world of work. Finally, as street people, they may create substantial law enforcement problems and endanger themselves. All these problems, real and potential, call for a comprehensive, nationwide, community-based program approach to address the needs of runaway, homeless and street youth.

B. Legislative Authority

Grants for the Basic Center Program for Runaway and Homeless Youth are authorized by Part A of the Runaway and Homeless Youth Act (RHY Act), 42 U.S.C. 5701 *et seq.* Grants for the Transitional Living Program for Homeless Youth are authorized under Part B of the Runaway and Homeless Youth Act. Part B was established in 1988 as part of Public law 100–690. The RHY Act was originally enacted as Title III of the Juvenile Justice and Delinquency Prevention Act of 1974 (Pub. L. 93–415) and amended by the Juvenile Justice Amendments of 1977 (Pub. L. 95–115), the Juvenile Justice Amendments of 1980 (Pub. L. 96–509), the Juvenile Justice Amendments of 1984 (Pub. L. 98–473) and the Juvenile Justice and Delinquency Prevention Act Amendments of 1992 (Pub. L. 102–586). Grants for Training and Technical Assistance are authorized under section 342 of the Runaway and Homeless Youth Act, as amended. Grants for the Street Outreach Program are authorized by the Violent Crime Control and Law Enforcement Act of 1994 (Pub. L. 103–322, Sec. 40155) which amended Part A of the Runaway and Homeless Youth Act (42 USC 5711 *et seq.*) by creating Section 316, Grants for Prevention of Sexual Abuse and Exploitation.

C. Definitions

1. The term ''homeless youth,'' as defined under Part A of the RHY Act, means a person under 18 years of age who is in need of services and without a place of shelter where he or she receives supervision and care. This definition applies to all Basic Center projects and can be found in 45 CFR 1351.1(f).

2. The term ''homeless youth,'' as defined under Part B of the RHY Act, means an individual who is not less than 16 years of age and not more than 21 years of age for whom it is not possible to live in a safe environment with a relative and who has no other safe alternative living arrangement. This definition applies to all Transitional Living programs and can be found in section 321(b)(1) of the RHY Act.

3. The term ''public agency'' means any State, unit of local government, Indian tribes and tribal organizations, combination of such States or units, or any agency, department, or instrumentality of any of the foregoing. This definition applies to all runaway and homeless youth programs funded under this announcement.

4. The term ''runaway youth'' means a person under 18 years of age who absents himself or herself from home or place of legal residence without the permission of parents or legal guardian. This definition applies to all Basic Center program grantees and can be found in 45 CFR 1351.1(k).

5. The term ''shelter'' includes host homes, group homes and supervised apartments. This definition applies to all RHY program grantees and is referenced in Section 322(1) of the RHY Act. As currently understood in the field:

''Host homes'' are facilities providing shelter, usually in the home of a family, under contract to accept runaway and/or homeless youth assigned by the RHY service provider and are licensed according to State or local laws.

''Group homes'' are single-site residential facilities designed to house RHY clients who may be new to the program or may require a higher level of supervision. These dwellings operate in accordance with State or local housing codes and licensure.

''Supervised apartment'' is a single unit dwelling or multiple unit apartment house operated under the auspices of the TLP service provider for the purpose of housing program participants.

6. The term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Marianas. This definition can be found in Section 3601(10) of the Anti-Drug Abuse Act, incorporating by reference Section 103(7) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

7. The term ''street-based outreach and education'' includes education and prevention efforts directed at youth that are victims of offenses committed by offenders who are and are not known to the victim.

8. The term ''street youth'' means a juvenile who spends a significant amount of time on the street or in other areas of exposure to encounters that may lead to sexual abuse.

9. The term ''temporary shelter'' means the provision of short-term (maximum of 15 days) room and board and core crisis intervention services on a 24-hour basis. This definition applies to all Basic Center Program grantees and can be found in 45 CFR 1351.1(o).

10. The term ''training'' means the provision of local, State, or regionally based instruction to runaway and homeless youth service providers in skill areas that will directly strengthen service delivery.

11. The term ''technical assistance'' means the provision of expertise,

consultation and/or support for the purpose of strengthening the capabilities of grantee organizations to deliver services.

12. The term ''transitional living youth project'' means a project that provides shelter and services designed to promote the transition to self-sufficient living and to prevent long-term dependency on social services. This definition applies to all TLP program grantees and is found in Section 321(b)(2) of the RHY Act.

13. The term ''cooperative agreement'' means a financial assistance award used if substantial Federal involvement with the grantee during the performance is anticipated by the awarding office.

D. ACF Hub/Regional Structure

On April 24, 1996, the Administration for Children and Families (ACF) published notice in the **Federal Register** of the change in its ten-region organizational structure into a five-region Hub structure: the Northeast (Regions I, II, and III), the Southeast (Region IV), the Midwest (Regions V and VII), the West Central (Regions VI and VIII) and the Pacific-West (Regions IX and X). The five Hub sites, headed by a Hub Director, are located in the five ACF Regional Offices with the largest caseloads and that serve the nation's largest population centers (New York, Atlanta, Chicago, Dallas and San Francisco). Each of the remaining five regions is part of a Hub (Boston, Philadelphia, Kansas City, Denver and Seattle). All Regional Offices represent ACF to State, county, city or town and tribal governments, grantees, and public and private local organizations in the administration of programs in the region which assist vulnerable children and families to achieve independence, stability, and self-reliance. For a complete overview of the Hub structure see Appendix H.

E. Final Priorities

Section 364 of the Runaway and Homeless Youth Act (RHY Act) requires the Department to publish annually for public comment a proposed plan specifying priorities the Department will follow in awarding grants and contracts under the RHY Act. The proposed plan for FY 1999 was published in the **Federal Register** on Thursday, February 4, 1999.

1. Public Comments

The Family and Youth Services Bureau (FYSB) received 116 responses, constituting a total of 220 comments. The overall comments were supportive of the proposed priorities and youth development philosophy. Of the 220 comments received, 95 percent support maintaining a nationally-administered and regionally delivered system for the Training and Technical Assistance Cooperative Agreements. To the extent feasible, ACYF has taken these comments into account in preparation of this announcement.

Approximately 98 percent of the comments received support shifting from three-year to five-year project periods. Because this is not within the parameters of the current regulations governing the Runaway and Homeless Youth Programs, revisions will be proposed to the current regulations to extend project periods to up to five years.

2. Final Program Priorities for Fiscal Year 1999

The Department will award new and continuation grants and contracts as specified below and will continue to support and emphasize a comprehensive youth development approach to services to youth and their families.

a. *Basic Center Program Grants.* Approximately 65 percent of the Basic Center grants awarded in FY 1999 will be non-competing continuation grants and approximately 35 percent will be competitive new awards. Eligible applicants for new awards are current grantees with project periods ending in FY 1999 and otherwise eligible applicants who are not current grantees. Applications will be competed by State, and awards will be made during the last quarter of FY 1999 (July–September 1999).

We estimate that 348 Basic Center grants will be funded in FY 1999. Approximately 105 will be competitive new starts and 243 will be non-competitive continuations.

Section 385(a)(2) of the Act requires that 90 percent of the funds appropriated under Part A (The Runaway and Homeless Youth Grant Program) be used to establish and strengthen Runaway and Homeless Youth Basic Centers. Total funding for FY 1999 under Part A of the Act is $43.7 million. This sum triggers the provision in the Act calling for a minimum award of $100,000 to each State, the District of Columbia and Puerto Rico, and a minimum award of $45,000 to each of the four insular areas: the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Marianas.

b. *Street Outreach Program Grants.* All FY 1999 funds for Street Outreach Program Grants will be noncompetitive continuations and supplements. Funding for Street Outreach Program grants in FY 1999 will be approximately $13.3 million.

c. *Transitional Living Program.* There will be a competition for new-start TLP applications in FY 1999. Funds for approximately 35 new start grants are expected to be awarded in FY 2000, after October 1, 1999. Non-competitive continuation funding will be awarded to 43 TLP grantees in FY 1999.

d. *Support Services for Runaway and Homeless Youth Programs.*

(1) *National Communication System.* Part C, Section 331 of the Runaway and Homeless Youth Act, as amended, mandates support for a National Communication System to assist runaway and homeless youth in communicating with their families/guardians and with service providers. In FY 1999, a three-year grant was awarded to the National Runaway Switchboard, Inc., in Chicago, Illinois, to operate the system.

(2) *Training and Technical Assistance.* Part D, Section 342 of the Act authorizes the Department to make grants to statewide and regional nonprofit organizations to provide training and technical assistance (T&TA) to organizations that are eligible to receive service grants under the Act. The purpose of T&TA is to strengthen programs and enhance the knowledge and skills of youth service workers.

In FY 1994, the Family and Youth Services Bureau awarded ten Cooperative Agreements, one in each of the ten Federal Regions, to provide T&TA to agencies funded by the Family and Youth Services Bureau to provide services to runaway and homeless youth. Each Cooperative Agreement is unique, being based on the characteristics and different T&TA needs in the respective Regions. The present cooperative agreements expire in September 1999.

Applications for new Cooperative Agreements for training and technical assistance are being solicited in this announcement (see Part II, Competitive Grant Area C).

(3) *National Clearinghouse on Families and Youth.* In 1997, The Family and Youth Services Bureau awarded a contract to continue operations of the National Clearinghouse on Families and Youth (NCFY). The purpose of the Clearinghouse is to serve as a central information point for professionals and agencies involved in the development and implementation of services to runaway and homeless youth. To this end, the Clearinghouse:

Collects, evaluates and maintains reports, materials and other products

regarding service provision to runaway and homeless youth;

Develops and disseminates reports and bibliographies useful to the field;

Identifies areas in which new or additional reports, materials and products are needed; and

Carries out other activities designed to provide the field with the information needed to improve services to runaway and homeless youth.

Subject to availability of funds, non-competitive continuation funds will be awarded to the Clearinghouse in Fiscal Year 1999.

(4) *Runaway and Homeless Youth Management Information System (RHYMIS).* The Family and Youth Services Bureau awarded a contract in FY 1997 for continued development and implementation of the Runaway and Homeless Youth Management Information System (RHYMIS) for FYSB programs. The data generated by the system are used to produce reports and information regarding the programs, including information for the required reports to Congress. The RHYMIS also serves as a management tool for FYSB and for individual programs.

In addition, the Year 2000 (Y2K) computer problem is an area of concern for all computer users. RHYMIS 4.0 is a Y2K compliant management information system. To meet reporting requirements, all of FYSB's grantees are required to have a computer system that is Y2K compliant to support RHYMIS. Below is the recommended minimum computer configuration capable of running RHYMIS:

Intel Pentium 166MHz processor
32 Mbytes of memory
8 speed CD–ROM drive
2.1 gbyte system hard disk drive
1.44 Mbytes diskette drive
Anti-Virus system installed
1.44 Mbytes diskette drive
33.6 data/fax modem
SVGA video card and Color Monitor
Windows 97 installed
Microsoft Access 7.0

Subject to availability of funds, non-competitive continuation funds will be awarded in FY 1999 to continue this work.

(5) *Monitoring Support for FYSB Programs.* The Family and Youth Services Bureau uses a standardized, comprehensive monitoring instrument and site visit protocol, including a pre-review component for monitoring runaway and homeless youth programs.

The Bureau awarded a new contract in FY 1997 to continue to provide logistical support for the peer review monitoring process, including nationwide distribution of the monitoring instrument. The findings from the monitoring visits are used by the Regional Offices and the T&TA providers as a basis for their activities.

Subject to availability of funds, non-competing continuation funds will be awarded in FY 1999 to continue this work.

(6) *Research, Demonstration and Management Initiatives.* Section 315 of the Act authorizes the Department to make grants to States, localities and private nonprofit entities to carry out research, demonstration and service projects designed to increase knowledge concerning and improve services for runaway and homeless youth. These activities serve to identify emerging issues and to develop and test models which address such issues. In FY 1998, the Family and Youth Services Bureau awarded grants to support Youth Development State Collaboration Demonstration Projects in nine States. The purpose of these demonstration grants is to create partnerships between States and FYSB in order to establish and support effective youth development program strategies at the State and local levels.

Subject to the availability of funds, the nine grantees will receive continuation funding in FY 1999.

e. *Comprehensive Youth Development Framework.* A youth development approach is central to all FYSB activities. In Fiscal Year 1995, a contract was awarded to develop a youth development framework from a theoretical perspective. This framework is intended to enhance the capacity of policy and program developers, program managers and youth services professionals to develop service models and approaches that direct youth toward positive pathways of development.

It is our hope and expectation that this framework will serve as a basis for securing consensus on a working definition of youth development and for increasing awareness of the importance and benefits of a youth development perspective in serving youth.

The reports, *Understanding Youth Development: Promoting Positive Pathways of Growth and Reconnecting Youth and Community: A Youth Development Approach,* are widely distributed as source documents for individuals and organizations interested in gaining a working knowledge of youth development, both its theoretical underpinnings and practical applications. Both publications are currently available from the National Clearinghouse on Families and Youth.

f. *Administrative Changes.* To support the increased emphasis on youth development, the following management and administrative efforts will continue:

- FYSB will continue to support a youth development approach to the provision of services, both from theoretical and practical perspectives;
- Regions/Hubs will continue to play a significant role in the assessment of grant applications. This role includes Regional staff involvement (1) as chairpersons for peer review panels and (2) in the conduct of administrative reviews of new start applications that take into account knowledge about the applicants' experience, effectiveness, potential and of the geographic distribution of the grantees in their respective States and Regions. Final funding decisions will remain the responsibility of the Commissioner of the Administration on Children, Youth and Families;
- FYSB will continue to explore the potential for successful collaborations among federal government agencies, state governments and local community-based youth services organizations; and
- FYSB will pursue the development of youth development performance-based indicators and outcome measures as a method of evaluating the effectiveness of youth services funded by FYSB.

F. General Instructions for the Uniform Project Description

The following ACF Uniform Project Description has been approved under OMB Control Number 0970–0139. This format is to be used to submit an application for the three programs covered under this announcement.

1. Introduction

Applicants required to submit a full project description shall prepare the project description statement in accordance with the following instructions. The pages of the project description must be numbered and are limited to 40 typed pages, double spaced, printed on only one side, with at least ½ inch margins. Pages over the limit will be removed from the application and will not be reviewed. In addition, please note that previous attempts by applicants to circumvent space limitations or to exceed page limits by using small print have resulted in negative responses from reviewers because of the difficulty in reviewing the application.

Applicants should use the evaluation criteria listed in Part II under the appropriate competitive grant area as a way to organize the uniform project description, providing specific information that addresses all components of each criterion.

It is in the applicant's best interest to ensure that the project description is easy to read, logically developed in accordance with evaluation criteria and adhere to page limitations. In addition, applicants should be mindful of the importance of preparing and submitting applications using language, terms, concepts and descriptions that are generally known both to the runaway and homeless youth and broader youth services field.

2. Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

3. Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated); some of which may be outside the scope of the program announcement.

4. Results or Benefits Expected

Identify the results and benefits to be derived. For example, when applying for a grant to serve adolescents and their families, describe who will receive services, where and how these services will be provided, and how the services will benefit the youth families and the community it will serve.

5. Approach

Outline a plan of action, which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of youth to be served and the results of those services. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

Identify the kinds of data to be collected, maintained, and/or disseminated. Note that clearance from the U.S. Office of Management and Budget might be needed prior to a ''collection of information'' that is ''conducted or sponsored'' by ACF. List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

6. Geographic Location

Describe the precise location of the project and boundaries of the area to be served by the proposed project. Maps or other graphic aids may be attached.

7. Additional Information

A. *Staff and Position Data:* Provide a biographical sketch for each key person appointed and a job description for each vacant key position. A biographical sketch will also be required for new key staff as appointed.

B. *Plan for Project Continuance Beyond Grant Support:* Provide a plan for securing resources and continuing project activities after Federal assistance has ceased.

C. *Organization Profiles:* Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information.

Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code, *or* by providing a copy of the currently valid IRS tax exemption certificate, *or* by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

D. *Third-Party Agreements:* Include written agreements between grantees and subgrantees or subcontractors or other cooperating entities. These agreements must detail scope of work to be performed, work schedules, remuneration, and other terms and conditions that structure or define the relationship.

E. *Letters of Support:* Provide statements from community, public and commercial leaders that support the project proposed for funding.

F. *Budget and Budget Justification:* Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

More detailed information on each of the competitive grant areas and specific criteria for evaluation of applications is presented in Part II, Sections A-D and in Part III.

Part II. Competitive Grant Areas and Evaluation Criteria

An application responding to one of the three competitive grant areas in Part II must have a project description which is organized and presented according to the related evaluation criteria contained in section F, items 1–7, of the OMB-approved ACF Uniform Project Description. The evaluation criteria specific to each competitive grant area can be found below in this Part.

Competitive Area A: Basic Center Program for Runaway and Homeless Youth

Eligible Applicants: Any State, unit of local government, combination of units of local government, public or private agency, organization or institution is eligible to apply for these funds. Federally recognized Indian Tribes are eligible to apply for Basic Center grants. Indian Tribes that are not federally recognized and urban Indian organizations are also eligible to apply for grants as private agencies.

Current Basic Center grantees with project periods ending by September 30, 1999 and all other eligible applicants not currently receiving Basic Center funds may apply for a new competitive Basic Center grant under this announcement.

Current Basic Center Program grantees (including subgrantees) with one or two years remaining on their current grant and the expectation of continuation funding in FY 1999 may not apply for a new Basic Center grant for the community they currently serve. These grantees will receive instructions from their respective ACF Regional Offices on the procedures for applying for non competitive continuation grants. Current grantees, which have questions regarding their eligibility to apply for new funds, should consult with the appropriate Regional Office Youth Contact, listed in Part V, Appendix D, to determine if they are eligible to apply for a new grant award.

Program Purpose, Goals and Objectives: The Administration for Children and Families expects to award approximately $10.4 million for approximately 105 new competitive Basic Center Program grants.

The purpose of Part A of the RHY Act is to establish or strengthen locally-controlled, community-based programs that address the immediate needs of runaway and homeless youth and their families. Services must be delivered outside of the law enforcement, child welfare, mental health and juvenile justice systems. The program goals and objectives of the Basic Center Program of Part A of the RHY Act are to:

a. Alleviate problems of runaway and homeless youth,

b. Reunite youth with their families and encourage the resolution of intrafamily problems through counseling and other services,

c. Strengthen family relationships and encourage stable living conditions for youth, and

d. Help youth decide upon constructive courses of action.

Background: The Runaway and Homeless Youth Act of 1974 was a response to widespread concern regarding the alarming number of youth who were leaving home without parental permission, crossing State lines and who, while away from home, were exposed to exploitation and other dangers of street life.

Each Basic Center program is required to provide outreach to runaway and homeless youth; temporary shelter for up to fifteen days; food; clothing; individual, group and family counseling; aftercare and referrals, as appropriate. Many Basic Center programs provide their services in residential settings for no more than 20 youth. Some programs also provide some or all of their shelter services through host homes (usually private homes under contract to the centers), with counseling and referrals being provided from a central location.

In FY 1998, approximately 75,000 youth received shelter and non-shelter services through ACYF-funded Basic Centers. The primary presenting problems of these youth include: (1) conflict with parents or other adults, including physical, sexual and emotional abuse; (2) other family crises such as divorce, death, or sudden loss of income; and (3) personal problems such as drug use, or problems with peers, school attendance and truancy, bad grades, inability to get along with teachers and learning disabilities. Slightly more than half gave an indication of clinical depression and 14 percent reported having made at least one suicide attempt.

After receiving services from Basic Center programs, approximately 66.5 percent of the youth return to their families; 25 percent go to a variety of other situations such as Job Corps, independent living programs, drug treatment programs and other institutional programs; and 8.5 percent return to the streets or to an unknown living situation after service.

In accordance with the RHY Act, the funds will be divided among the States in proportion to their respective populations under the age of 18, according to the latest census data. A minimum of $100,000 will be awarded to each State, the District of Columbia and Puerto Rico. A minimum of $45,000 will be awarded to each of the four insular areas: Guam, American Samoa, the Commonwealth of the Northern Marianas and the Virgin Islands.

The funds available for continuations and new starts in each State and insular area is listed in the Table of Allocations by State (Part V, Appendix G). In this Table, the amounts shown in the column labeled ''New Starts'' are the amounts available for competition under this announcement. The number of new awards made within each State depends upon the amount of the State's total allotment less the amount required for non-competing continuations, as well as on the number of acceptable applications. Therefore, where the amount required for non-competing continuations in any State equals or exceeds the State's total allotment, it is possible that no new awards will be made.

All applicants under this competitive grant area will compete with other applicants in the State in which they propose to deliver services. In the event that there are insufficient numbers of applications approved for funding in any State or jurisdiction, the Commissioner of ACYF will reallocate the unused funds.

Duration of Project: This announcement solicits applications for Basic Center programs of up to three years duration (36-month project periods). Initial grant awards, made on a competitive basis, will be for one-year (12-month) budget periods. Applications for non competitive continuation grants beyond the one-year budget periods, but within the 36-month project periods, will be entertained in subsequent years, subject to the availability of funds, satisfactory progress of the grantee and determination that continued funding would be in the best interest of the government.

Federal Share of Project Costs: Priority will be given to applicants which apply for less than $200,000 per year. The maximum Federal share for a 3-year project period is $600,000.

Applicant Share of Project Costs: Basic Center grantees must provide a non-Federal share or match of at least ten percent of the Federal funds awarded. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a three-year project costing $300,000 in Federal funds (based on an award of $100,000 per 12-month budget period) must include a match of at least $30,000 ($10,000 per budget period).

Evaluation Criteria for BCP: The five criteria that follow will be used to review and evaluate each application under the Basic Center competitive grant area. Each of these criterion should be addressed in the project description section of the application. The point values indicate the maximum numerical weight each criterion will be accorded in the review process. Note that the highest possible score an application can receive under this competitive grant area is 105 points.

Criterion 1. Objectives and Need for Assistance (15 Points)

1. Applicant must specify the goals and objectives of the project and how implementation will fulfill the purposes of the legislation identified above.

2. Applicant must state the need for assistance by describing the conditions of youth and families in the area to be served and the incidence and characteristics of runaway and homeless youth and their families. The discussion

must include matters of family functioning and the health, education, employment and social conditions of the youth, including at-risk conditions or behaviors such as drug use, school failure and delinquency. Applicants proposing to focus services on a specific RHY population (e.g., single sex programs, gay and lesbian youth, a particular ethnic group, etc.) must explain and justify why the population requires focused services.

3. Applicant must indicate need for assistance by discussing the existing support systems for at-risk youth and families in the area, with specific references to law enforcement, health and mental health care, social services, schools and child welfare. In addition, other agencies providing shelter and services to runaway and homeless youth in the area must be identified. Supporting documentation of need from other community groups may be included.

4. Applicant must describe the area to be served, indicate the precise locations of program services and demonstrate that the services will be located in an area which is frequented by and/or easily accessible by runaway and homeless youth. Maps or other graphic aids may be attached.

Criterion 2. Results and Benefits Expected (20 Points)

1. Applicant must specify the number of runaway and homeless youth and their families to be served, the number of beds available for runaway and homeless youth and the types and quantities of services to be provided.

2. Applicant must describe the anticipated changes in attitudes, values and behavior of the youth served and improvements in individual and family functioning that will occur as a consequence of the services provided.

3. Applicant must discuss the expected impact of the program on the organization's capacity to effectively provide services to runaway and homeless youth in the community.

4. Applicant must describe the criteria to be used to evaluate the results and success of the program.

Criterion 3. Approach (35 Points)

1. Applicant must describe the program's youth development approach or philosophy and indicate how it underlies and integrates all proposed activities, including provision of services to runaway and homeless youth and involvement of the youth's parents or legal guardians. Specific information must be provided on how youth will be involved in the design, operation and evaluation of the program.

2. Applicant must describe how runaway and homeless youth and their families will be reached and how services will be provided in compliance with the Program Performance Standards listed in Part V, Appendix A. Applicants proposing to serve a specific RHY population (e.g. single sex programs, gay and lesbian youth, a particular ethnic group, etc.) must explain how the services provided will meet the special needs of this population and how the applicant will make referrals or otherwise provide for the needs of RHY youth who are not in the specific population the applicant will serve.

3. Applicant must include a detailed plan for implementing direct services based upon a youth development approach and identified goals and objectives. The plan must clearly state how the proposed work will be accomplished.

4. Applicant must identify the strategies that will be employed and the activities that will be implemented, including innovative or unusual features or approaches for involving family members as an integral part of the services provided, for periodic review and assessment of individual cases and for encouraging awareness of and sensitivity to the diverse needs of runaway and homeless youth who represent particular ethnic and racial backgrounds, sexual orientations, or who are street youth.

5. Applicant must describe how the program has established or will establish formal service linkages with other social service, law enforcement, educational, housing, vocational, welfare, legal service, drug treatment and health care agencies in order to ensure appropriate referrals for the program clients when needed.

6. Applicant must describe plans for conducting an outreach program that, where applicable, will attract members of ethnic and racial minorities and/or persons with limited ability to speak English.

7. Applicant must describe plans and procedures for intake and assessment of the youth upon arrival at the center.

8. Applicant must describe plans for contacting parents, relatives or guardians of the youth they serve; for ensuring the safe return of youth to their parents, relatives or legal guardians if it is in their best interests; for contacting local governments pursuant to formal or informal arrangements established with such officials; and for providing alternative living arrangements when it is not safe or appropriate for youth to return home.

9. Applicant must describe the type, capacity and staff supervision of the shelter that will be available for youth.

10. Applicant must describe plans for ensuring proper coordination with law enforcement, health and mental health care, social service and welfare agencies.

11. Applicant must describe the plans for ensuring coordination with schools to which runaway and homeless youth will return and for assisting the youth to stay current with the curricula of these schools.

12. Applicant must describe procedures for dealing with youth who have run from foster care placements and from correctional institutions and must show that procedures are in accordance with Federal, State and local laws.

13. Applicant must describe plans and procedures for providing aftercare services and ensuring, whenever possible, that aftercare will also be provided to those youth who return beyond the State in which the program is located.

14. Applicant must agree to gather and submit program and client data required by FYSB through the Runaway and Homeless Youth Management Information System (RHYMIS). If applicant is a current FYSB grantee, describe the data currently collected and submitted under the RHYMIS system. Current recipients of a FYSB grant who are not submitting the required data are at risk of not being considered for a new grant award.

15. Applicant must agree to cooperate with any research or evaluation efforts sponsored by the Administration for Children and Families.

16. Applicant must describe how the activities implemented under this project will be continued by the agency once Federal funding for the project has ended and must describe specific plans for accomplishing program phase-out in the event the applicant cannot obtain new operating funds at the end of the 36-month project period.

17. Applicant must describe procedures for maintaining confidentiality of records on the youth and families served. Procedures must insure that no information on the youth and families is disclosed without the consent of the individual youth, parent or legal guardian. Disclosures without consent can be made to another agency compiling statistical records if individual identities are not provided or to a government agency involved in the disposition of criminal charges against an individual youth.

Criterion 4. Staff and Position Data and Organization Profiles (20 Points Plus 5 Possible Bonus Points)

1. Applicant must discuss staff and organizational experience in working with runaway, homeless and street youth populations. As required by the RHY Act, priority for funding will be given to organizations with experience in providing direct services to runaway, homeless and street youth in a manner that is in concert with the Basic Center Program Performance Standards found below in Part V, Appendix A. Applicant must document the services it provides to this specific population and the length of time the applicant has been involved in the provision of these services. Five bonus points may be awarded to applicants who have at least three years of experience providing direct services to runaway, homeless and street youth.

2. Applicant must include information on skills, knowledge and experience of the project director and key project staff. Brief resumes of current and proposed staff, as well as job descriptions, should be included. Resumes must indicate what position the individual will fill and position descriptions must specifically describe the job as it relates to the proposed project. Applicants must also list organizations and consultants who will work on the program along with a short description of the nature of their effort or contribution. Applicant must provide information on plans for training project staff as well as staff of cooperating organizations and individuals.

3. Applicant must demonstrate the ability of the organization to effectively manage the program.

4. Applicant must provide a short description of the applicant agency's organization; the types, quantities and costs of services it provides and must identify and discuss the role of other organizations or multiple sites of the agency that will be involved in direct services to runaway and homeless youth through this grant. List all these sites, including addresses, phone numbers and staff contact names if different than those on the SF 424. If the agency is a recipient of funds from the Administration on Children, Youth and Families for services to runaway and homeless youth for programs other than that applied for in this application, show how the services supported by these funds are or will be integrated with the existing services. Organizational charts may be provided.

5. Applicant must provide an annotated listing of its funding sources and contractual agreements and other relationships which support or complement the provision of mandated services to runaway, homeless and street youth.

Criterion 5. Budget (10 Points)

1. Applicant must show that costs of the proposed program are reasonable and justified in terms of numbers of youth and families to be served, types and quantities of services to be provided and the anticipated results and benefits. Discussion should refer to (1) the budget information presented on Standard Forms 424 and 424A and the applicant's budget justification and (2) the results or benefits identified under Criterion 2 above.

2. Applicant must describe the fiscal control and accounting procedures that will be used to ensure prudent use, proper disbursement and accurate accounting of funds received under this program announcement. For-profit applicants for Basic Center Program grants are reminded that no grant funds may be paid as profit to any recipient of a grant or sub-grant (45 CFR 74.705).

3. While computer software and training for program data collection through the RHYMIS will be provided by FYSB to grantees, applicant should include a request for funds in its budget (within the maximum Federal funds allowed) for any computer equipment needed for implementation of the RHYMIS. The estimated cost of such equipment is approximately $2000, and information regarding the kind of equipment needed will be provided to successful applicants.

Competitive Area B: Transitional Living Program for Homeless Youth

Eligible Applicants: Any State, units of local government (or a combination of units of local government), public or non profit, private agency organizations, institutions or other non profit entities. Federally recognized Indian Tribes are eligible to apply for TLP grants. Indian Tribes that are not federally recognized and urban Indian organizations are also eligible to apply for grants as private, non profit agencies.

Current TLP grantees with project periods ending by December 31, 1999 and all other eligible applicants not currently receiving TLP funds may apply for a new competitive TLP grant under this announcement.

Current TLP grantees (including subgrantees) with one or two years remaining on their current awards and the expectation of continuation funding in Fiscal Year 1999 may not apply for a new TLP grant under this announcement. These grantees will receive instructions from their respective ACF Region/Hub Offices on the procedures for applying for non-competitive continuation grants. Current grantees, which have questions regarding their eligibility to apply for new funds, should consult with the appropriate Regional Hub Office Youth contact, listed in Part V, Appendix D, to determine if they are eligible to apply for a new grant award.

Program Purpose, Goals and Objectives: The Administration for Children and Families expects to award approximately $7 million for approximately 35 new service grants in FY 2000 to provide shelter, skill training and support services to assist homeless youth in making a smooth transition to self-sufficiency and to prevent long-term dependency on social services.

The overall purpose of TLP for homeless youth is to establish and operate transitional living projects for homeless youth. This program is structured to help older, homeless youth achieve self-sufficiency and avoid long-term dependency on social services. Transitional living projects provide shelter, skills training, and support services to homeless youth ages 16 through 21 for a continuous period not exceeding 18 months. Transitional Living Program funds are to be used for the purpose of enhancing the capacities of youth-serving agencies in local communities to effectively address the service needs of homeless, older adolescents and young adults. Goals, objectives and activities that may be maintained, improved and/or expanded through a TLP grant must include, but are not necessarily limited to:

- Providing stable, safe living accommodations while a homeless youth is a program participant;
- Providing the services necessary to assist homeless youth in developing both the skills and personal characteristics needed to enable them to live independently;
- Providing education, information and counseling aimed at preventing, treating and reducing substance abuse among homeless youth;
- Providing homeless youth with appropriate referrals and access to medical and mental health treatment;
- Providing the services and referrals necessary to assist youth in preparing for and obtaining employment; and
- Providing the services and referrals necessary to assist youth in preparing for and obtaining secondary, and where feasible, post-secondary education and/or vocational training.

Background: It is estimated that about one-fourth of the youth served by all runaway and homeless youth programs are homeless. This means that the youth

cannot return home or to another safe living arrangement with a relative. Other homeless youth have ''aged out'' of the child welfare system and are no longer eligible for foster care.

These young people are often homeless through no fault of their own. The families they can no longer live with are often physically and sexually abusive and involved in drug and alcohol abuse. They cannot meet the youth's basic human needs (shelter, food, clothing), let alone provide the supportive and safe environment needed for the healthy development of self-image and the skills and personal characteristics which would enable them to mature into a self-sufficient adult.

Homeless youth, lacking a stable family environment and without social and economic supports, are also at high risk of being involved in dangerous lifestyles and problematic or delinquent behaviors. More than two-thirds of homeless youth served by ACF-funded programs report using drugs or alcohol and many participate in survival sex and prostitution to meet their basic needs.

Homeless youth are in need of a support system that will assist them in making the transition to adulthood and independent living. While all adolescents are faced with adjustment issues as they approach adulthood, homeless youth experience more severe problems and are at greater risk in terms of their ability to successfully make the transition to self-sufficiency and to become a productive member of society.

The Transitional Living Program for Homeless Youth specifically targets services to homeless youth and affords youth service agencies with an opportunity to serve homeless youth in a manner which is comprehensive and geared towards ensuring a successful transition to self-sufficiency. The TLP also improves the availability of comprehensive, integrated services for homeless youth, which reduces the risks of exploitation and danger to which these youth are exposed while living on the streets without positive economic or social supports.

Duration of Project: This announcement solicits applications for Transitional Living projects of up to three years (36-month project periods). Initial grant awards, made on a competitive basis, will be for one-year (12-month) budget periods. Applications for non competing continuation grants beyond the one-year budget periods, but within the 36-month project periods, will be entertained in subsequent years, subject to the availability of funds, satisfactory progress of the grantee and determination that continued funding would be in the best interest of the government.

Federal Share of Project Costs: Applicants may apply for up to $200,000 per year, which equals a maximum of $600,000 for a 3-year project period.

Applicant Share of Project Cost: Transitional Living grantees must provide a non-Federal share or match of at least ten percent of the Federal funds awarded. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a three-year project costing $300,000 in Federal funds (based on an award of $100,000 per 12-month budget period) must include a match of at least $30,000 ($10,000 per budget period).

Evaluation Criteria for TLP: The five criteria that follow will be used to review and evaluate each application under the TLP competitive grant area. Each of these criteria should be addressed in the project description section of the application. The point values indicate the maximum numerical weight each criterion will be accorded in the review process. Note that the highest possible score an application can receive under this competitive grant area is 105 points.

Criterion 1. Objectives and Need for Assistance (15 Points)

1. Applicant must specify the goals and objectives of the project and how implementation will fulfill the purposes of the legislation identified above, ultimately a successful transition to self-sufficiency.

2. Applicant must discuss the issue of youth homelessness in the community to be served, the present availability of services for homeless youth and provide documentation of the incidence of homeless youth.

3. Applicant must describe the system that will be used to ensure that individual clients will meet the eligibility criteria of need for service as established by the Act. This should include, but not limited to, a discussion of the intake and assessment activities which will be conducted with a client prior to acceptance into the TLP project. The applicant is encouraged to include samples of any forms to be used to determine eligibility and appropriate services.

Criterion 2. Results and Benefits (20 Points)

1. Applicant must describe how homeless youth will be reached and identify the number who will be served annually on both a residential and non-residential basis.

2. Applicant must provide information on the expected results and benefits of the program in terms of the number of youth who will successfully complete the program as well as potential problems or barriers to program implementation that might be possible reason(s) for failure. Applicant must also discuss the organization's policy on termination and re-entry of youth out of and into the program.

3. Applicant must discuss the expected impact of the project on the availability of services to homeless youth in the local community and indicate how the project will enhance the organization's capacity to provide services to address youth homelessness in the community.

Criterion 3. Approach (35 Points)

Applicant must discuss how they will implement the statutory requirements of the Act. Specifically, the applicant must describe plans for the provision of shelter and services and for program administration. In addition, the applicant must describe the program's youth development approach or philosophy and indicate how it underlies and integrates all proposed activities. Specific information must be provided on how youth will be involved in the design, operation and evaluation of the program.

1. *Shelter:* Applicant must:

Assure that shelter is provided through one or a combination of the following:

(a) A group home facility;
(b) Family host homes; or
(c) Supervised apartments.

Applicant must indicate if the shelter will be provided directly or indirectly. When shelter will be provided indirectly, applicant must submit copies of formal written agreements with service providers regarding the terms under which shelter is provided.

Assure that the facilities used for housing, whether a shelter, host family home and/or supervised apartments, shall accommodate no more than 20 youth at any given time; shall have a sufficient number of staff to ensure on-site supervision at each shelter option that is not a family home including periodic, unannounced visits from project staff; and is in compliance with State and local licensing requirements.

Assure, if applicable, that the applicant meets the requirements of the RHY Act for the lease of surplus Federal facilities for use as transitional living housing facilities. Each surplus Federal facility used for this purpose must be

made available for a period not less than two years, and no rent or fee shall be charged to the applicant in connection with use of such a facility. Any structural modifications or additions to surplus Federal facilities become the property of the government of the United States. All such modifications or additions may be made only after receiving prior written consent from the appropriate Department of Health and Human Services official.

2. *Services:* Applicant must include a description of the core services to be provided. The description must include the purpose and concept of the service, its role in both the overall program design and the individual client TLP plan. The services to be provided must include, but are not necessarily limited to, the following:

- Basic life skills information, counseling, and training including budgeting, money management, use of credit, housekeeping, menu planning and food preparation, consumer education, leisure-time activities, transportation, and obtaining vital documents (Social Security card, birth certificate).
- Interpersonal skill building, such as developing positive relationships with peers and adults, effective communication, decision making, and stress management.
- Educational advancement, such as GED preparation and attainment, post-secondary training (college, technical school, military, etc.), and vocational education.
- Job preparation and attainment, such as career counseling, job preparation training, dress and grooming, job placement and job maintenance.
- Mental health care, such as counseling (individual and group), drug abuse education, prevention and referral services, and mental health counseling.
- Physical health care, such as routine physicals, health assessments, family planning/parenting skills, and emergency medical treatment.
- The substantive participation of youth in the assessment and implementation of their needs, including the development and implementation of the individual transitional living plan and in decisions about the services to be received.
- Programmatic efforts planned and/or implemented to encourage awareness of and sensitivity to the particular needs of homeless youth who are members of ethnic, racial and sexual minority groups and/or who are street youth.

3. *Administration:* Applicant must:

- Describe the procedures to be employed in the development, implementation and monitoring of an individualized, written transitional living plan for each program participant which addresses the provision of services, and is appropriate to the individual developmental needs of the client.
- Assure that the participant will substantively participate in the assessment of his or her needs and in decisions about the services to be received.
- Assure that the outreach programs to be established are designed to attract individuals who are eligible to participate in the project.
- Provide an assurance that housing and services will be available to a participant for a continuous period not to exceed 540 days (18 months).
- Describe the methods to be employed in collecting statistical records and evaluative data and for submitting annual reports on such information to the Department of Health and Human Services.
- Describe how the applicant will ensure the confidentiality of participant's records.
- Describe how the activities implemented under this project will be continued by the agency once Federal funding for the project has ended, with specific plans for accomplishing program phase-out for the last two quarters of program project period in the event that the applicant would not receive a new award.
- Agree to gather and submit program and client data required by FYSB through the Runaway and Homeless Youth System (RHYMIS). If applicant is a current FYSB grantee, describe the data currently collected and submitted under the RHYMIS system. Current recipients of a FYSB grant who are not submitting the required data are at risk of not being considered for a new grant award.
- Agree to cooperate with any research or evaluation efforts sponsored by the Administration for Children and Families.

Criterion 4. Staff and Position Data and Organization Profiles (20 Points Plus 5 Possible Bonus Points)

1. Applicant must discuss staff and organizational experience in working with runaway, homeless and street youth populations. As required by the RHY Act, priority for funding will be given to organizations with experience in providing direct services to runaway, homeless and street youth in a manner that is in concert with the Basic Center Program Performance Standards found below in Part V, Appendix A. Applicant must document the services it provides to this specific population and the length of time the applicant has been involved in the provision of these services. Five bonus points may be awarded to applicants who have at least three years of experience providing direct services to runaway, homeless and street youth.

2. Applicant must include information on skills, knowledge and experience of the project director and key project staff. Brief resumes of current and proposed staff, as well as job descriptions, should be included. Resumes must indicate what position the individual will fill and position descriptions must specifically describe the job as it relates to the proposed project. Applicants must also list organizations and consultants who will work on the program along with a short description of the nature of their effort or contribution. Applicant must provide information on plans for training project staff as well as staff of cooperating organizations and individuals.

3. Applicant must describe how the project has established or will establish formal service linkages with other social service, law enforcement, educational, housing, vocational, welfare, legal service, drug treatment and health care agencies in order to ensure appropriate referrals for the project participants where and when needed.

4. Applicant must demonstrate the ability of the organization to effectively manage the program.

5. Applicant must provide a short description of the applicant agency's organization: the types, quantities and costs of services it provides and must identify and discuss the role of other organizations or multiple sites of the agency that will be involved in direct services to runaway and homeless youth through this grant. List all these sites, including addresses, phone numbers and staff contact names if different than those on the SF 424. If the agency is a recipient of funds from the Administration on Children, Youth and Families for services to runaway and homeless youth for programs other than that applied for in this application, show how the services supported by these funds are or will be integrated with the existing services. Organizational charts may be provided.

6. Applicant must provide an annotated listing of its funding sources and contractual agreements and other relationships which support or complement the provision of mandated services to runaway, homeless and street youth.

Criterion 5. Budget (10 Points)

1. Applicant must show that costs of the proposed program are reasonable and justified in terms of numbers of youth and families to be served, types and quantities of services to be provided and the anticipated results and benefits. Discussion should refer to (1) the budget information presented on Standard Forms 424 and 424A and the applicant's budget justification and (2) the results or benefits identified under Criterion 2 above.

2. Applicant must describe the fiscal control and accounting procedures that will be used to ensure prudent use, proper disbursement and accurate accounting of funds received under this program announcement.

3. While computer software and training for program data collection through the RHYMIS will be provided by FYSB to grantees, applicant should include a request for funds in its budget (within the maximum Federal funds allowed) for any computer equipment needed for implementation of the RHYMIS. The estimated cost of such equipment is approximately $2000, and information regarding the kind of equipment needed will be provided to successful applicants.

4. Applicant must describe how cost-effective use of TLP funds will be ensured by taking maximum advantage of existing resources within the State which would help in the operation or coordination of a TLP, including those resources which are supported by Federal Independent Living Initiatives funds. Also, applicant must describe efforts to be undertaken over the length of the project which may increase non-Federal resources available to support the TLP.

Competitive Area C: Training and Technical Assistance Cooperative Agreements

Eligible Applicants: Nonprofit organizations and combinations of such organizations with demonstrated capacity to provide services to runaway and homeless youth service providers on a Statewide or regional basis.

Program Purpose, Goals and Objectives: FYSB supports a national T&TA effort designed to enhance and promote the continuous quality improvement of the services available to runaway, homeless and street youth and their families. FYSB expects to award approximately $2 million to fund up to ten cooperative agreements to enhance the programmatic and administrative capacities of public and private agencies to provide services to the targeted populations. Applications to provide such assistance may cover one or more of the ten Federal Regions or one or more of the five Regional Hubs and may include subcontracts to cover specific regional or multi-State areas. Applications, whether covering a Hub or a Region, must provide assurance that staff will be accessible to the Central and Regional offices. Applicants covering a region should discuss coordination with other potential providers in a Hub. Applicants must show how they intend to provide service to all customers in their service area regardless of geographic location. (See Appendix H for listing of Federal regions and Hubs and the number of grantees by region.)

The successful applicants are expected to provide the following services and activities as core elements:

1. Provide program specific technical assistance through consultation. Consultation may be on-site, via telephone or any combination of strategies, which address and/or correct programmatic and administrative concerns. Technical assistance designed and/or provided to grantees for this purpose must be accessible and individualized, must provide concrete information and skill building and must include follow-up efforts. The TA delivered will be based upon the specific needs of the grantee(s) requesting the assistance. However, the TA must conform to the intent of the law.

2. Provide a mechanism such as, but not limited to a newsletter, list serve and/or electronic bulletin board for sharing information for the purpose of improving and increasing resources and information available to RHY grantees and, for sharing new and emerging information concerning service provision issues and best practices obtained through interaction with grantees and other youth serving agencies through workshops, conferences and other activities associated with the provision of T&TA.

3. Provide intensive, skill-based training and technical assistance to newly funded and inexperienced RHY grantees, when requested by the grantee and/or the ACF Regional Hub office as a direct outcome of on-site monitoring and/or analysis of MIS data.

4. Use monitoring reports, MIS data and corrective action reports for the purpose of providing technical assistance to address the grantees program specific needs. Delivery of T/A will be made in consultation with the Central and Regional Offices and approved by the Federal Project Officer.

5. Provide staff training focused on quality skill development that: (a) provides opportunities for hands-on participation, direct observation, practices and expert feedback: (b) analyzes, integrates and transmits knowledge obtained from research findings, curricula, and models of greatest interest to grantees: and (c) recognizes new and emerging youth issues and provides intensive skills training in these areas.

6. Promote cooperative relationships among training and technical assistance providers, the National Clearinghouse on Families and Youth, and other FYSB support contractors for the exchange of information regarding identified technical assistance and training needs, emerging youth issues, research findings, curricula and model programs. FYSB strongly encourages the establishment of an advisory board with representation at a minimum from the regional office, a representative sample of each type of FYSB program in the regional area, the Executive Director of the organization funded under this competitive grant, the Project Director(s) of the State Collaboration Grantees (where applicable) and other State and local youth service providers.

The award of these cooperative agreements (see definition section) will include a delineation of the responsibilities of the successful applicants and the Administration on Children, Youth and Families. The responsibilities contained in each cooperative agreement may be geared toward the unique needs of the RHY programs in the geographic area(s) to be served with a description of the uniqueness of the program, as well as incorporating the core elements, described above, consistent to all RHY programs regardless of geographic area.

At a minimum, the responsibilities of the successful applicants will include development and implementation of a work-plan (including TA capacity inventory forms, procedures, evaluation strategies/forms, site-visit plans, schedules, etc.), provision of training and technical assistance to grantees, and coordination with other grantee support efforts and T&TA providers. Responsibilities of the Federal staff will include, at a minimum, consultation in the development of workplans; review and approval of workplans; coordination and sharing of monitoring data, as appropriate; identification of technical assistance needs; and sponsorship of a national meeting of T&TA providers.

Background: Since 1975, many State and local agencies and community-based programs have been established and/or strengthened to provide needed short and long-term services to

runaway, homeless and street youth. These agencies are both public and private, profit making and nonprofit. Some focus on a single concern, such as crisis intervention or substance abuse prevention, while others are comprehensive or all-purpose agencies, with specific components that deal with the physical health, mental health, family reunification and functioning, employment, education and transitional living needs of these young people.

Notwithstanding the significant numbers of effective agencies and competent professional staff dedicated to assisting runaway, homeless and street youth across the country, services in some geographic areas are inadequate or non-existent. In other cases, existing programs lack staff resources with the full range of skills required to carry out the ever changing responsibilities with which the individual programs are charged. Also, many of the developed and tested curricula and models are little known or understood, even among programs and staff where they could be of the greatest use. Further, as a youth development approach has gradually emerged that focuses on a young person's competence, connection to community, altruism, control, autonomy and identity as an alternative to adolescent health and behavioral risks; there is a need to partner with states, local, government, foundations, and community based organizations to establish and support effective long range youth development strategies, funding and policy information. In addition, as new issues emerge, even experienced staff and agency leadership need to enhance their existing skills and develop new ones.

To address these issues, Section 342 of the Runaway and Homeless Youth Act, administered by the Youth and Family Services Bureau, authorizes support to nonprofit organizations for the purpose of providing training and technical assistance (T&TA) to runaway, homeless and street youth service providers.

To effectively provide such assistance, extensive interaction with grantees, integration and sharing of knowledge, coordination with other components supporting the runaway and homeless service system such as RHYMIS and program monitoring, and a cooperative relationship among training and technical assistance providers is needed. FYSB is supporting a national T&TA effort designed to support the continuous improvement of all RHY grantees as they work to deliver high quality and effective services to youth, young adults and their families. Our T&TA system reflects a national commitment to quality improvement and capacity-building at the local and Regional Hub level.

Duration of Project: This announcement solicits applications for Training and Technical Assistance grants up to three years (36 month project periods). Grant awards, made on a competitive basis, will be for a one year (12-month) budget period. Applications for continuation grants beyond the one-year budget period, but within the 36 month project period, will be considered in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee and determination that continued funding would be in the best interest of the government.

Anticipated Federal Funding: The anticipated Federal funding for the first 12-month budget period will range from $150,000–$400,000 per grant, contingent on the identified service area.

Applicant Share of Project Costs: Training and Tehnical Assistance grantees must provide a non-Federal share or match of at least ten percent of the Federal funds awarded. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a three-year project costing $300,000 in Federal funds (based on an award of $100,000 per 12-month budget period) must include a match of at least $30,000 ($10,000 per budget period).

Evaluation Criteria for Training and Technical Assistance Cooperative Agreements: The five criteria that follow will be used to review and evaluate each application under the Training and Technical Assistance competitive grant area. Each of these criterion should be addressed in the project description section of the application. The point values indicate the maximum numerical weight each criterion will be accorded in the review process. Note that the highest possible score an application can receive under this competitive grant area is 100 points.

Criterion 1. Objectives and Need for Assistance (15 Points)

1. Identify the exact geographic area(s) to be served in terms of its distinctive features, including the States topography, economic condition etc.

2. Discuss youth well-being and homelessness in the geographic area(s) to be served. Provide recent documentation of the incidence of homeless youth and other youth in crisis.

3. Demonstrate an understanding of the incidence and conditions of runaway and homeless youth in the geographic area(s) to be served; and current issues, special problems and needs associated with runaway and homeless youth such as substance abuse, sexual abuse, learning disabilities, lack of independent living skills and risky behavior.

4. Discuss services in the geographic area(s) for runaway and homeless youth (Basic Centers, Transitional Living Programs, Street Outreach Programs and related demonstration service grants).

5. Indicate an understanding of the capacities and management systems necessary to establish and operate runaway and homeless youth agencies. Discuss the knowledge, skills, abilities and experience required by individual youth service professionals at both the administrative and direct service levels.

6. Discuss and justify the need for short-term training and technical assistance in the geographic area to be served.

7. Discuss barriers to services in the geographic area and greatest training and technical assistance needs of runaway and homeless youth service providers. Evidence consideration of the distinctive features identified in #1 above.

8. Demonstrate an understanding of relevant research and youth development findings and products, and knowledge of available curricula, models and experts.

Criterion 2. Results and Benefits (20 Points)

1. Discuss the goals and objectives of the proposed training and technical assistance effort and how it builds and/or improves upon past efforts in terms of learning goals and objectives for individuals trained and technical assistance provided to agencies.

2. Project the number of agencies and individuals that would receive training and technical assistance services.

3. Describe how the training and technical assistance effort will increase the programmatic and administrative capacities of RHY grantees to deliver effective and quality services to runaway and homeless youth.

4. Describe in measurable terms how specific agency competencies will be enhanced by the training and technical assistance provided. Provide examples such as: (1) number of staff to be certified in short-term family mediation counseling; (2) number of staff to be trained in FYSB?s youth development approach; (3) number of staff to be trained in assessment based case management; and (4) number of

additional trainings to be provided by the receiving grantee after being trained by the T/TA provider., etc.

5. Describe how training and technical assistance to be provided will build on current program strengths and promote continuous program improvement.

Criterion 3. Approach (35 Points)

1. Describe the approach, philosophy, strategies, methodologies and models that would be used to assess and address the unique training and technical assistance needs of runaway and homeless youth service providers in the geographic area(s) to be served. Describe the proposed effort and activities in detail.

2. Describe the perceived types of interaction with grantees to support an inventory of training needs, development of training plan and design of training and technical assistance strategies.

3. Discuss the approach that will be used to provide quality staff training which focuses on skill development that provides opportunities for hands-on participation, direct observation, practice and expert feedback; which analyzes, integrates and transmits knowledge obtained from research findings, curricula, and models of greatest interest to grantees; and recognizes new and emerging youth issues and provides intensive skills training in these areas.

4. Describe the approach that will be used for the collaborative exchange of monitoring and MIS information for runaway and homeless youth programs for the purpose of planning training and technical assistance for the geographic area to be served. Include a discussion of training and technical assistance that is a follow-up to monitoring and responsive to the needs of individual grantees.

5. Describe the approach that would be used to promote the transmittal of knowledge and skills from highly skilled youth service providers to less experienced staff.

6. Describe the approach for establishing a cooperative relationship with other training and technical assistance providers, Federal offices, state officials, Foundations, national contractors and city governments.

7. Provide a detailed description of the efforts that will be carried out by the applicant directly and those efforts to be carried out in conjunction with other agencies or consultants. Discuss how these efforts will enhance training and technical assistance provision.

8. Describe the methodology that will be used to evaluate the effectiveness of the training and technical assistance provided to runaway and homeless youth service providers in the geographic area(s).

9. Discuss the approach that would be used and sample events and activities to be sponsored or co-sponsored to encourage cultural competency of runaway and homeless youth service providers in areas such as outreach, program design, staffing and board development. Include proposed time frames for accomplishing major milestones, levels of effort, letters of commitment and support.

Criterion 4. Staff and Position Data and Organization Profiles (20 Points)

1. Describe the organizational history, structure, and experience providing training and technical assistance. Discuss operating principles with respect to the development and implementation of training and technical assistance.

2. Clearly define roles and provide job descriptions of key project positions.

3. Provide resumes of current and proposed staff. Include skills, experience, and qualifications working with runaway and homeless youth, and developing and designing training and technical assistance for youth service providers, incorporating the youth development approach.

4. Describe facilities, equipment, and other resources that would be available to the project.

5. Describe the administrative and organizational structure and linkages established with other relevant organizations (e.g. subcontractors, other projects). Provide charts summarizing these structures and linkages and written agreements defining them (include in appendices).

6. Describe how the organization plans to ensure that consultants/subcontractors and other staff are culturally diverse and representative of the same ethnic backgrounds of the youth being served.

7. Applicant must provide an annotated listing of its funding sources and contractual agreements and other relationships which support or complement the provision of mandated services to runaway, homeless and street youth.

Criterion 5. Budget (10 Points)

1. Discuss and justify the cost of the proposed project in terms of types and quantities of services to be provided.

2. Describe the fiscal control and accounting procedures that will be used to ensure the prudent use, proper disbursement, and accurate accounting of funds received.

3. Describe how additional resources necessary to carry out this project would be obtained and integrated into the work of the project.

4. Provide assurance that one key person from the project would attend an annual 2–3 day FYSB sponsored meeting in Washington, D.C.

Part III. Application Process

A. Assistance to Prospective Grantees

Potential grantees can direct questions about program requirements or application forms to the Administration on Children, Youth and Families, Family and Youth Services Bureau, Program Announcement, 1815 North Fort Myer Drive, Suite 300, Arlington, VA 22209; Telephone: 1–800–351–2293; electronic mail: FYSB@lcgnet.com. Further general information may be obtained from the Training and Technical Assistance Providers listed in Part V, Appendix E for those interested in BCP and TLP.

B. Application Requirements

To be considered for a grant, each application must be submitted on the forms provided at the end of this announcement (Part V, Section H) and in accordance with the guidance provided below. The application must be signed by an individual authorized to act for the applicant agency and to assume responsibility for the obligations imposed by terms and conditions of the grant award. If more than one agency is involved in submitting a single application, one entity must be identified as the applicant organization which will have legal responsibility for the grant.

C. Paperwork Reduction Act of 1995 (Public Law 104–13)

The Uniform Project Description information collection within this Program Announcement is approved under Uniform Project Description (0970–0139), Expiration Date 10/31/2000.

Public reporting burden for this collection of information is estimated to average 10 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. An agency may not conduct or sponsor and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

D. Notification Under Executive Order 12372

This program is covered under Executive Order (E.O.) 12372,

''Intergovernmental Review of Federal Programs,'' and 45 CFR Part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

As of September 1997, the following jurisdictions have elected not to participate in the Executive Order Process. Applicants from these jurisdictions or for projects administered by Federally-recognized Indian tribes need take no action in regard to E.O. 12372: Alabama, Alaska, American Samoa, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Palau, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia and Washington. All remaining jurisdictions participate in the Executive Order process and have established Single Points of Contacts (SPOCs). Applicants from participating jurisdictions should contact their SPOC as soon as possible to alert them to the prospective application and receive any necessary instructions.

Applicants must submit any required material to the SPOCs as early as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline date to comment on proposed new awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which they intend to trigger the ''accommodate or explain'' rule. When comments are submitted directly to ACYF, they must be addressed to: Department of Health and Human Services, Administration on Children, Youth and Families, Family and Youth Services Bureau, Room 2038, 330 C Street SW, Washington, D.C. 20447.

A list of the Single Points of Contact for each State and Territory is included as Part V, Appendix F, of this announcement.

E. Availability of Forms and Other Materials

A copy of the forms that must be submitted as part of each application for a runaway and homeless youth grant and instructions for completing the application are provided in Part V, Appendix H. Legislation referenced in Part I, section B, of this announcement may be found in major public libraries, and the appendices at the end of this announcement contain other relevant information regarding RHY programs. Additional copies of this announcement may be obtained by calling 1–800–351–2293. Many standard forms can also be downloaded and printed from the following ACF webpage: http://www.acf.dhhs.gov/programs/oa/form.htm.

F. Application Consideration

All applications which are complete and conform to the requirements of this program announcement will be subject to a competitive review and evaluation against the specific competitive grant area criteria outlined in Part II of this announcement. This review will be conducted in Washington, D.C., by panels of non-Federal experts knowledgeable in the areas of youth development and human services. Applications for Basic Center Program grants will be reviewed competitively only with other applications from the same State.

Application review panels will assign a score to each application, identifying its strengths and weaknesses. Both Central and Regional Hub office staff will conduct administrative reviews of the applications and the results of the competitive review panels and will recommend applications for funding to the Commissioner, ACYF. The Commissioner will make the final selection of the applications to be funded.

In addition to scores assigned by non-Federal reviewers and Federal administrative reviews, the Commissioner may approve applications proposing services in unserved or inadequately served areas in an effort to make sure there is a geographic distribution of services. The Commissioner may also elect not to fund any applicants having known management, fiscal, reporting, program, or other problems which make it unlikely that they would be able to provide effective services.

Successful applicants will be notified through the issuance of a Financial Assistance Award which will set forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which initial support will be given, the non-Federal share to be provided and the total project period for which support is contemplated. As part of the award process, a cooperative agreement must be jointly developed which includes an explicit statement of the nature, character, and extent of anticipated Federal agency and grantee involvement.

Organizations whose applications will not be funded will be notified in writing by the Commissioner of the Administration on Children, Youth and Families. Every effort will be made to notify all unsuccessful applicants as soon as possible after final decisions are made.

Part IV. Application Content and Submission Instructions

A. Application Content

Each application must contain the following items in the order listed:

1. Application for Federal Assistance (Standard Form 424, REV 4–92). Follow the instructions in Part V, Appendix I. In Item 8 of Form 424, check ''New.'' In Item 10 of the 424, clearly identify the *Catalog of Federal Domestic Assistance (CFDA) Program* title and number for the program for which funds are being requested:

Program title	CFDA program No.
Basic Center Program	93.623
Transitional Living Program	93.550
Training and Technical Assistance	93.623

In Item 11 of the 424, identify which Competitive Grant Area (IIA: Basic Center Program (BCP), IIB: Transitional Living Program (TLP) or IIC: Training and Technical Assistance Cooperative Agreements (T&TA) the application addresses.

In item 12, identify the specific geographic area to be served.

2. Budget and Budget Justification (Standard Form 424A, REV 4–92). Follow the instructions in Part V, Appendix I. The budget justification should be typed on standard size plain white paper, provide breakdowns for major budget categories and justify significant costs. List amounts and sources of all funds, both Federal and non-Federal, to be used for this project. Federal funds provided to States and services or other resources purchased with Federal funds may not be used to match project grants. Applicants, which do not provide the required percentage of non-Federal share, will not be funded.

3. Project Summary/Abstract (one page maximum). Clearly mark this page with the applicant name as shown on item 5 of the SF 424, identify the competitive grant area and the title of the proposed project as shown in item 11 and the service area as shown in item 12 of the SF 424. The summary description should not exceed 300 words.

Care should be taken to produce a summary which accurately and concisely reflects the proposed project. It should describe the objectives of the project, the approach to be used and the results and benefits expected.

4. Assurances/Certifications. Applicants are required to sign and return a SF 424B, Assurances—Non-Construction Programs and the Certification Regarding Lobbing forms and return them with the application. Copies of the assurances and certifications are reprinted at the end of this announcement and may be reproduced as necessary. A duly authorized representative of the applicant organization must certify that the applicant is in compliance with these assurances and certifications. In addition, applicants must certify their compliance with: (1) Drug-Free Workplace Requirements; (2) Debarment and Other Responsibilities; and (3) Pro-Children Act of 1994 (Certification Regarding Environmental Tobacco Smoke). A signature on the SF 424 indicates compliance with the Drug Free Workplace Requirements, Debarment and Other Responsibilities and Environmental Tobacco Smoke Certifications. A signature on the application constitutes an assurance that the applicant will comply with the pertinent Departmental regulations contained in 45 CFR Part 74.

5. Documents of Support. The maximum number of pages for supporting documentation is 10 pages, double-spaced, exclusive of letters of support or agreement. These documents must be numbered and might include resumes, photocopies of news clippings, evidence of the program's efforts to coordinate youth services at the local level, etc. Documentation over the ten-page limit will not be reviewed. Applicants may, however, include as many letters of support or agreement as are appropriate.

B. Application Submission

To be considered for funding, each applicant must submit one signed original and two additional copies of the application, including all attachments, to the application receipt point specified above. The original copy of the application must have original signatures, signed in *black* ink. Each copy must be stapled (back and front) in the upper left corner. All copies of an application must be submitted in a single package.

Because each application will be duplicated, do not use or include separate covers, binders, clips, tabs, plastic inserts, maps, brochures or any other items that cannot be processed easily on a photocopy machine with an automatic feed. Do not bind, clip, staple, or fasten in any way separate subsections of the application, including supporting documentation. Applicants are advised that the copies of the application submitted, not the original, will be reproduced by the Federal government for review.

A separate application must be submitted for each competitive grant area and applications that combine two or more competitive grant areas will not be reviewed or funded. Envelopes containing an application must clearly indicate the specific competitive grant area that the application is addressing: Basic Center Program, Transitional Living Program, or Training and Technical Assistance Cooperative Agreements.

(Catalog of Federal Domestic Assistance: Number 93.623, Basic Center Program for Runaway and Homeless Youth; Number 93.550, Transitional Living Program for Homeless Youth; Number 93.623 Training and Technical Assistance Cooperative Agreements.)

Dated: April 25, 1999.

Patricia Montoya,

Commissioner, Administration on Children, Youth and Families.

Part V. Appendices

Appendix A. Basic Center Program Performance Standards

Program Performance Standards

I. Purpose

The Program Performance Standards established by the Bureau for its funded centers relate to the basic program components enumerated in Section 317 of the Runaway and Homeless Youth Act and as further detailed in the Regulations and Program Guidance governing the implementation of the Act. They address the methods and processes by which the needs of runaway and homeless youth and their families are being met, as opposed to the outcome of the services provided on the clients served.

The terms ''program performance standard,'' ''criterion,'' and ''indicators'' are used throughout both the instrument and the instructions. These terms are defined as follows:

Program Performance Standard: The general principle against which a judgment can be made to determine whether a service or an administrative component has achieved a particular level of attainment.

Criterion: A specific dimension or aspect of a program performance standard which helps to define that standard and which is amenable to direct observation or measurement.

Indicator: The specific documentation which demonstrates whether a criterion (or an aspect of a criterion) is being met and thereby the extent to which a specific aspect of a standard is being met.

Fourteen program performance standards, with related criteria, are established by the Bureau for the projects funded under the Runaway and Homeless Youth Act. Nine of these standards relate to service components (outreach, individual intake process, temporary shelter, individual and group counseling, family counseling, service linkages, aftercare services, recreational programs, and case disposition), and five to administrative functions or activities (staffing and staff development, youth participation, individual client files, ongoing project planning, and board of directors/advisory body).

Although fiscal management is not included as a program performance standard, it is viewed by FYSB as being an essential element in the operation of its funded projects. Therefore, as validation visits are made, the Regional ACF specialist and/or staff from the Office of Fiscal Operations will also review the project's financial management activities.

FYSB views these program performance standards as constituting the minimum standards to which its funded projects should conform. The primary assumption underlying the program performance standards is that the service and administrative components which are encompassed within these standards are integral (but not sufficient in themselves) to a program of services which effectively addresses the crisis and long-term needs of runaway and homeless youth and their families.

The program performance standards are designed to serve as a developmental tool, and are to be employed by both the project staff and the Regional ACF staff specialists in identifying those service and administrative components and activities of individual projects which require strengthening and/or development either through internal action on the part of staff or through the provision of external technical assistance.

II. Program Performance Standards and Criteria

The following constitute the program performance standards and criteria established by the Bureau for its funded centers. Each standard is numbered, and each criterion is listed after a lower case letter.

1. Outreach

The project shall conduct outreach efforts directed towards community agencies, youth and parents.

2. Individual Intake Process

The project shall conduct an individual intake process with each youth seeking services from the project. The individual intake process shall provide for:

a. Direct access to project services on a 24-hour basis.

b. The identification of the emergency service needs of each youth and the provision of the appropriate services either directly or through referrals to community agencies and individuals.

c. An explanation of the services which are available and the requirements for participation, and the securing of a voluntary commitment from each youth to participate in project services prior to admitting the youth into the project.

d. The recording of basic background information on each youth admitted into the project.

e. The assignment of primary responsibility to one staff member for coordinating the services provided to each youth.

f. The contact of the parent(s) or legal guardian of each youth provided temporary shelter within the timeframe established by State law or, in the absence of State requirements, preferably within 24 but within no more than 72 hours following the youth's admission into the project.

3. Temporary Shelter

The project shall provide temporary shelter and food to each youth admitted into the project and requesting such services.

a. Each facility in which temporary shelter is provided shall be in compliance with State and local licensing requirements.

b. Each facility in which temporary shelter is provided shall accommodate no more than 20 youth at any given time.

c. Temporary shelter shall normally not be provided for a period exceeding two weeks during a given stay at the project.

d. Each facility in which temporary shelter is provided shall make at least two meals per day available to youth served on a temporary shelter basis.

e. At least one adult shall be on the premises whenever youth are using the temporary shelter facility.

4. Individual and Group Counseling

The project shall provide individual and/or group counseling to each youth admitted into the project.

a. Individual and/or group counseling shall be available daily to each youth admitted into the project on a temporary shelter basis and requesting such counseling.

b. Individual and/or group counseling shall be available to each youth admitted into the project on a non-residential basis and requesting such counseling.

c. The individual and/or group counseling shall be provided by qualified staff.

5. Family Counseling

The project shall make family counseling available to each parent or legal guardian and youth admitted into the project.

a. Family counseling shall be provided to each parent or legal guardian and youth admitted into the project and requesting such services.

b. The family counseling shall be provided by qualified staff.

6. Service Linkages

The project shall establish and maintain linkages with community agencies and individuals for the provision of those services which are required by youth and/or their families but which are not provided directly by the centers.

a. Arrangements shall be made with community agencies and individuals for the provision of alternative living arrangements, medical services, psychological and/or psychiatric services, and the other assistance required by youth admitted into the project and/or by their families which are not provided directly by the project.

b. Specific efforts shall be conducted by the project directed toward establishing working relationships with law enforcement and other juvenile justice system personnel.

7. Aftercare Services

The project shall provide a continuity of services to all youth served on a temporary shelter basis and/or their families following the termination of such temporary shelter both directly and through referrals to other agencies and individuals.

8. Recreational Program

The project shall provide a recreational-leisure time schedule of activities for youth admitted to the project for residential care.

9. Case Disposition

The project shall determine, on an individual case basis, the disposition of each youth provided temporary shelter, and shall assure the safe arrival of each youth home or to an alternative living arrangement.

a. To the extent feasible, the project shall provide for the active involvement of the youth, the parent(s) or legal guardian, and the staff in determining what living arrangement constitutes the best interest of each youth.

b. The project shall assure the safe arrival of each youth home or to an alternative living arrangement, following the termination of the crisis services provided by the project, by arranging for the transportation of the youth if he/she will be residing within the area served by the project; or by arranging for the meeting and local transportation of the youth at his/her destination if he/she will be residing beyond the area served by the project.

c. The project shall verify the arrival of each youth who is not accompanied home or to an alternative living arrangement by the parent(s) or legal guardian, project staff or other agency staff within 12 hours after his/her scheduled arrival at his/her destination.

10. Staffing and Staff Development

Each center is required to develop and maintain a plan for staffing and staff development.

a. The project shall operate under an affirmative action plan.

b. The project shall maintain a written staffing plan which indicates the number of paid and volunteer staff in each job category.

c. The project shall maintain a written job description for each paid and volunteer staff function which describes both the major tasks to be performed and the qualifications required.

d. The project shall provide training to all paid and volunteer staff (including youth) in both the procedures employed by the project and in specific skill areas as determined by the project.

e. The project shall evaluate the performance of each paid and volunteer staff member on a regular basis.

f. Case supervision sessions, involving relevant project staff, shall be conducted at least weekly to review current cases and the types of counseling and other services which are being provided.

11. Youth Participation

The center shall actively involve youth in the design and delivery of the services provided by the project.

a. Youth shall be involved in the ongoing planning efforts conducted by the project.

b. Youth shall be involved in the delivery of the services provided by the project.

12. Individual Client Files

The project shall maintain an individual file on each youth admitted into the project.

a. The client file maintained on each youth should, at a minimum, include an intake form which minimally contains the basic background information needed by FYSB; counseling notations; information on the services provided both directly and through referrals to community agencies and individuals; disposition data; and, as applicable, any follow-up and evaluation data which are compiled by the center.

b. The file on each client shall be maintained by the project in a secure place and shall not be disclosed without the written permission of the client and his/her parent(s) or legal guardian except to project staff, to the funding agency(ies) and its(their) contractor(s), and to a court involved in the disposition of criminal charges against the youth.

13. Ongoing Center Planning

The center shall develop a written plan at least annually.

a. At least annually, the project shall review the crisis counseling, temporary shelter, and aftercare needs of the youth in the area served by the center and the existing services which are available to meet these needs.

b. The project shall conduct an ongoing evaluation of the impact of its services on the youth and families it serves.

c. At least annually, the project shall review and revise, as appropriate, its goals, objectives, and activities based upon the data generated through both the review of youth needs and existing services (13a) and the follow-up evaluations (13b).

d. The project's planning process shall be open to all paid and volunteer staff, youth, and members of the Board of Directors and/or Advisory Body.

14. Board of Directors/Advisory Body (Optional)

It is strongly recommended that the centers have a Board of Directors or Advisory Body.

a. The membership of the project's Board of Directors or Advisory Body shall be composed of a representative cross-section of the community, including youth, parents, and agency representatives.

b. Training shall be provided to the Board of Directors or Advisory Body designed to orient the members to the goals, objectives, and activities of the project.

c. The Board of Directors or Advisory Body shall review and approve the overall goals, objectives, and activities of the project, including the written plan developed under standard 13.

Appendix B. National Runaway Switchboard (National Communications System)

The National Runaway Switchboard—Toll-free: 1–800–621–4000

- Facilitates communication among youth, their families and youth and community-based resources through conference calling services.
- Provides crisis intervention counseling and message delivery services to at-risk youth and their families.
- Provides information and referral services to at-risk youth and their families on youth serving agencies using a computerized national resource directory.
- Conducts an annual conference for local switchboard service providers.

The Switchboard distributes information brochures, posters, a newsletter, and public service announcements. For more information, contact the National Runaway Switchboard, 3080 North Lincoln, Chicago, IL 60657, (312) 880–9860.

Appendix C. National Clearinghouse on Families and Youth

The National Clearinghouse on Families and Youth (NCFY) is a resource for communities interested in developing new and effective strategies for supporting young people and their families. The Family and Youth Services Bureau (FYSB) within the U.S. Department of Health and Human Services, established NCFY to serve as a central information source on family and youth issues. As a national resource for youth service professionals, policymakers and the general public, NCFY offers the following services:

Information Sharing

Through a professionally staffed information line, databases, and special mailings, NCFY actively distributes information about effective program approaches, available resources, and current activities relevant to the family and youth services fields.

Issue Forums

NCFY facilitates FYSB-sponsored forums, bringing together experts in the field to discuss critical issues and emerging trends and develop strategies for improving services to families and youth. NCFY shares forum outcomes with the field.

Materials Development

NCFY produces information on FYSB and its programs, as well as reports on critical issues, best practices, and promising approaches.

Networking

NCFY supports FYSB's efforts to collaborate with other Federal agencies, State and local governments, national organizations, and communities to address the full range of issues facing young people and their families today.

To find out more about the National Clearinghouse on Families and Youth, please call or write: National Clearinghouse on Families and Youth, P.O. Box 13505, Silver Spring, Maryland 20911–3505, (301) 608–8098, Fax: (301) 608–8721.

Appendix D. Administration for Children and Families

Regional Office Youth Contacts

Region I: Bill Jackson, Administration for Children and Families, John F. Kennedy Federal Building, Room 2011, Boston, Massachusetts 02203 (CT, MA, ME, NH, RI, VT), (617) 565–1118

Region II: Junius Scott, Administration for Children and Families, 26 Federal Plaza, Room 1239, New York, NY 10278 (NJ, NY, PR, VI), (212) 264–1329

Region III: Dick Gilbert, Administration for Children and Families, 150 S. Independence Mall West, Suite 864, Philadelphia, PA 19104–3499 (DC, DE, MD, PA, VA, WV), (215) 861–4031

Region IV: Frank McBeth, Administration for Children and Families, 61 Forsyth Street, S.W., Suite #4M60, Atlanta, GA 30303 (AL, FL, GA, KY, MS, NC, SC, TN), (404) 562–2844

Region V: Katie Williams, Administration for Children and Families, 105 West Adams, 23rd Floor, Chicago, IL 60603 (IL, IN, MI, MN, OH, WI), (312) 353–9675

Region VI: Ralph Rogers, Administration for Children and Families, 1301 Young Street, Dallas, TX 75202 (AR, LA, NM, OK, TX), (214) 767–2977

Region VII: Dale Scott, Administration for Children and Families, Federal Office Building, Room 384, 601 East 12th Street, Kansas City, MO 64106 (IA, KS, MO, NE), (816) 426–5401, Ext. 181

Region VIII: Vicki Wright, Administration for Children and Families, Federal Office Building, 1961 Stout Street, 9th Floor, Denver, CO 80294 (CO, MT, ND, SD, UT, WY), (303) 844–3100, Ext. 361

Region IX: Deborah Oppenheim, Administration for Children and Families, 50 United Nations Plaza, San Francisco, CA 94102 (AZ, CA, HI, NV, American Samoa, Guam, Northern Mariana Islands, Marshall Islands, Federated States of Micronesia), (415) 437–8426

Region X: Steve Ice, Administration for Children and Families, 2201 Sixth Avenue, RX 32, Seattle, WA 98121 (AK, ID, OR, WA), (206) 615–2558, Ext. 3075

Appendix E. Training and Technical Assistance Providers

FYSB funds ten regionally based organizations to provide training and technical assistance to programs funded under the Basic Center, Transitional Living and Street Outreach Programs, and to other agencies serving runaway and homeless youth.

Each of the training and technical assistance providers offers on-site consultations; regional, State and local conferences; information sharing and skill-based training.

For more information, contact the training and technical assistance provider in your region.

New England Network for Child, Youth and Family Services, 25 Stow Road, Boxborough, MA 01719, Contact: Nancy Jackson, (508) 266–1998, NENNJ@ma.ultranet.com

Empire State Coalition of Youth and Family Services, 121 Avenue of the Americas, New York, NY 10013, Contact: Margo Hirsch, (212) 966–6477, EMPSTACOAL@aol.com

Mid-Atlantic Network of Youth and Family Services, 9400 McKnight Road, Pittsburgh, PA 15237, Contact: Nancy Johnson, (412) 366–6562, NancyJMANY@aol.com

Southeastern Network of Youth and Family Services, 1761 South Lumpkin Street, Athens, GA 30606, Contact: Gail Kurtz, (706) 354–4568, KLKURTZ@senetwork.org

Youth Network Council, 59 East Van Buren Street, Chicago, IL 60605, Contact: Denis Murstein, (312) 427–2710, Dmurstein@aol.com

Southwest Network of Youth Services, 2525 Wallingwood Drive, Austin, TX 78746, Contact: Theresa Tod, (512) 328–6860, TheresaTod@aol.com

M.I.N.K., A Network of Runaway and Youth Serving Agencies, c/o Youth in Need, 516 Jefferson Street, St. Charles, MO 63301, Contact: Theresa Jenkins, (314) 946–0101, YINLH@aol.com

Mountain Plains Youth Services, 221 West Rosser, Bismarck, ND 58501, Contact: Linda Wood, (701) 255–7229, MTNPLAINS@aol.com

Western States Youth Services Network, 1309 Ross Street, Petaluma, CA 94954, Contact: Nancy Fastenau, (707) 763–2213, WSYSN@aol.com

Northwest Network for Youth, 603 Steward Street, Seattle, WA 98101, Contact: Andrew Estep, (206) 628–3760, Northwstnw@aol.com

Appendix F. State Single Points of Contact (SPOCS)

Arizona

Joni Saad, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone: (602) 280–1315, FAX: (602) 280–8144

Arkansas

Mr. Tracy L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Admin., 515 W. 7th St., Room 412, Little Rock, Arkansas 72203, Telephone: (501) 682–1074, FAX: (501) 682–5206

California

Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Room 121, Sacramento, California 95814, Telephone: (916) 445–0613, FAX: (916) 322–3018

Delaware

Francine Booth, State Single Point of Contact, Executive Department, Office of the Budget, 540 S. Dupont Hwy., Ste. 5, Dover, Delaware 19903, Telephone: (302) 739–3326, FAX: (302) 739–5661

District of Columbia

Charles Nichols, State Single Point of Contact, Office of Grants Mgmt. and Dev.,

717 14th Street, N.W.—Suite 1200, Washington, D.C. 20005, Telephone: (202) 727–1700 (direct), FAX: (202) 727–1617, (202) 727–6537 (secretary)

Florida

Florida State Clearinghouse, Department of Community Affairs, 2555 Shumard Oak Blvd., Tallahassee, Florida 32399–2100, Telephone: (850) 922–5438, FAX: (850) 414–0479, Contact: Cherie Trainor, (850) 414–5495

Georgia

Deborah Stephens, Coordinator, Georgia State Clearinghouse, 270 Washington Street, S.W., 8th Floor, Atlanta, Georgia 30334, Telephone: (404) 656–3855, FAX: (404) 656–7901

Illinois

Virginia Bova, State Single Point of Contact, Illinois Department of Commerce and Community Affairs, James R. Thompson Center, 100 West Randolph, Suite 3–400, Chicago, Illinois 60601, Telephone: (312) 814–6028, FAX: (312) 814–1800

Indiana

Renee Miller. State Budget Agency, 212 State House, Indianapolis, Indiana 46204–2796, Telephone: (317) 232–2971 (direct line), FAX: (317) 233–3323

Iowa

Steven R. McCann, Div. for Community Assistance, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone: (515) 242–4719, FAX: (515) 242–4809

Kentucky

Kevin J. Goldsmith, Director, Sandra Brewer, Executive Secretary, Intergovernmental Affairs, Office of the Governor, 700 Capitol Avenue, Frankfort, Kentucky 40601, Telephone: (502) 564–2611, FAX: (502) 564–0437

Maine

Joyce Benson, State Planning Office, 184 State Street, 38 State House Station, Augusta, Maine 04333, Telephone: (207) 287–3261, FAX: (207) 287–6489

Maryland

Linda Janey, Manager, Plan and Project Review, Maryland Office of Planning, 301 W. Preston Street—Room 1104, Baltimore, Maryland 21201–2365, Staff Contact: Linda Janey, Telephone: (410) 767–4490, FAX: (410) 767–4480

Michigan

Richard Pfaff, Southeast Michigan Council of Governments, 660 Plaza Drive—Suite 1900, Detroit, Michigan 48226, Telephone: (313) 961–4266, FAX: (313) 961–4869

Mississippi

Cathy Mallette, Clearinghouse Officer, Department of Finance and Administration, 550 High Street, 303 Walters Sillers Bldg., Jackson, Mississippi 39201–3087, Telephone: (601) 359–6762, FAX: (601) 359–6758

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Jefferson Building, 9th Floor, Jefferson City, Missouri 65102, Telephone: (314) 751–4834, FAX: (314) 751–7819

Nevada

Department of Administration, State Clearinghouse, 209 E. Muser Street, Room 220, Carson City, Nevada 89710, Telephone: (702) 687–4065, FAX: (702) 687–3983, Contact: Heather Elliot, (702) 687–6367

New Hampshire

Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process, Mike Blake, 2 1/2 Beacon Street, Concord, New Hampshire 03301, Telephone: (603) 271–2155, FAX: (603) 271–1728

New Mexico

Nick Mandell, Local Government Division, Room 201, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone: (505) 827–3640, FAX: (505) 827–4984

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone: (518) 474–1605, FAX: (518) 486–5617

North Carolina

Jeanette Furney, North Carolina Department of Administration, 116 West Jones Street—Suite 5106, Raleigh, North Carolina 27603–8003, Telephone: (919) 733–7232, FAX: (919) 733–9571

North Dakota

North Dakota Single Point of Contact, Office of Intergovernmental Assistance, 600 East Boulevard Avenue, Bismarck, North Dakota 58505–0170, Telephone: (701) 224–2094, FAX: (701) 224–2308

Rhode Island

Kevin Nelson, Review Coordinator, Department of Administration, Division of Planning, One Capitol Hill, 4th Floor, Providence, Rhode Island 02908–5870, Telephone: (401) 277–2656, FAX: (401) 277–2083

South Carolina

Omeagia Burgess, State Single Point of Contact, Budget and Control Board, Office of State Budget, 1122 Ladies Street, 12th Floor, Columbia, South Carolina 29201, Telephone: (803) 734–0494, FAX: (803) 734–0645

Texas

Tom Adams, Governors Office, Director, Intergovernmental Coordination, P.O. Box 12428, Austin, Texas 78711, Telephone: (512) 463–1771, FAX: (512) 463–2681

Utah

Carolyn Wright, Utah State Clearinghouse, Office of Planning and Budget, Room 116 State Capitol, Salt Lake City, Utah 84114, Telephone: (801) 538–1027, FAX: (801) 538–1547

West Virginia

Fred Cutlip, Director, Community Development Division, W. Virginia Development Office, Building #6, Room 553, Charleston, West Virginia 25305, Telephone: (304) 558–4010, FAX: (304) 558–3248

Wisconsin

Jeff Smith, Section Chief, Federal/State Relations, Wisconsin Department of Administration, 101 East Wilson Street—6th Floor, P.O. Box 7868, Madison, Wisconsin 53707, Telephone: (608) 266–0267, FAX: (608) 267–6931

Wyoming

Sandy Ross, State Single Point of Contact, Dept. of Administration and Information, 2001 Capital Avenue, Room 214, Cheyenne, Wyoming 82002, Telephone: (307) 777–5492, FAX: (307) 777–3696

Territories

Guam

Joseph Rivera, Acting Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96932, Telephone: (671) 475–9411 or 9412, FAX: (671) 472–2825

Puerto Rico

Jose Caballero-Mercado, Chairman, Puerto Rico Planning Board, Federal Proposals Review Office, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–1119, Telephone: (787) 727–4444, (787) 723–6190, FAX : (787) 724–3270, (809) 724–3103

Northern Mariana Islands

Office of Management and Budget, Mr. Alvaro A. Santos, Executive Officer, Office of the Governor, Saipan, MP 96950, Telephone: (670) 664–2256, FAX: (670) 664–2272, Contact Person: Ms. Jacoba T. Seman, Federal Programs Coordinator, Telephone: (670) 644–2289, FAX: (670) 644–2272

Virgin Islands

Nellon Bowry, Director, Office of Management and Budget, #41 Norregade Emancipation Garden Station, Second Floor, Saint Thomas, Virgin Islands 00802

Please direct all questions and correspondence about intergovermental review to:

Linda Clarke, Telephone: (809) 774–0750, FAX: (809) 776–0069

Appendix G. Basic Center Program Allocations by State

BASIC CENTER PROGRAM FOR RUNAWAY AND HOMELESS YOUTH—TABLE OF ALLOCATIONS BY STATE

[Fiscal Year 1999]

Regions and states	Continuations	New starts	Totals
Region I:			
Connecticut	$338,000	$46,439	$384,439
Maine	167,310	.....	167,310
Massachusetts	395,000	337,081	732,081
New Hampshire	126,713	49,466	176,179
Rhode Island	135,666	17,195	152,861
Vermont	100,000	.....	100,000
Region II:			
New Jersey	860,000	190,024	1,050,024
New York	1,666,138	780,564	2,446,702
Puerto Rico	337,786	195,912	533,698
Virgin Islands	.....	45,000	45,000
Region III:			
Delaware	100,000	.....	100,000
District of Columbia	100,000	.....	100,000
Maryland	519,040	200,000	719,040
Pennsylvania	1,332,859	252,293	1,585,152
Virginia	592,649	308,996	901,645
West Virginia	235,577	.....	235,577
Region IV:			
Alabama	477,091	116,056	593,147
Florida	1,439,666	433,383	1,873,049
Georgia	871,050	274,330	1,145,380
Kentucky	541,658	25,035	566,693
Mississippi	97,299	346,318	443,617
North Carolina	714,632	354,720	1,069,352
South Carolina	.....	528,908	528,908
Tennessee	200,000	435,217	635,217
Region V:			
Illinois	1,481,273	79,386	1,560,659
Indiana	585,018	300,000	885,018
Michigan	950,659	435,622	1,386,281
Minnesota	531,637	160,566	692,203
Ohio	1,254,480	316,592	1,571,072
Wisconsin	630,675	56,990	687,665
Region VI:			
Arkansas	368,193.00	.....	368,193
Louisiana	280,448	359,152	639,600
New Mexico	283,151	.....	283,151
Oklahoma	424,838	71,577	496,415
Texas	2,138,344	967,817	3,106,161
Region VII:			
Iowa	254,463	149,605	404,068
Kansas	234,684	139,879	374,563
Missouri	621,106	157,293	778,399
Nebraska	146,768	105,979	252,747
Region VIII:			
Colorado	410,000	157,054	567,054
Montana	129,819	.....	129,819
North Dakota	86,337	23,663	110,000
South Dakota	62,143	37,857	100,000
Utah	.....	380,822	380,822
Wyoming	100,000	.....	100,000
Region IX:			
America Samoa	.....	45,000	45,000
Arizona	467,206	240,150	707,356
California	3,964,961	900,367	4,865,328
Guam	.....	45,000	45,000
Hawaii	171,844	26,587	198,431
Northern Marianas	.....	45,000	45,000
Nevada	232,779	13,682	246,461
Region X:			
Alaska	102,400	50,000	152,400
Idaho	194,728	50,000	244,728
Oregon	424,727	23,962	448,689
Washington	602,219	202,873	805,092
Totals	28,483,034	10,479,412	38,962,446

Appendix H. ACF Hub Regional Listing

Northeast Hub	Region I	Region II	Region III
Number of FYSB Grantees Per Region:			
	Connecticut	New Jersey	Delaware.
	Maine	New York	District of Columbia.
Region I—42	Massachusetts	Puerto Rico	Maryland.
Region II—60	New Hampshire	Virgin Islands	Pennsylvania.
Region III—55	Rhode Island		Virginia.
	Vermont		West Virginia.

Southeast Hub	Region IV
Number of FYSB Grantees Per Region:	
	Alabama
	Florida
Region IV—78	Georgia
	Kentucky
	Mississippi
	North Carolina
	South Carolina
	Tennessee

North Central Hub	Region V	Region VII
Number of FYSB Grantees Per Region:		
	Illinois	Iowa
	Indiana	Kansas
Region V—108	Michigan	Missouri
Region VII—29	Minnesota	Nebraska
	Ohio	
	Wisconsin	

West Central Hub	Region VI	Region VIII
Number of FYSB Grantees Per Region:		
	Arkansas	Colorado
	Louisiana	Montana
Region VI—57	New Mexico	North Dakota
Region VIII—32	Oklahoma	South Dakota
	Texas	Utah
		Wyoming

West Pacific Hub	Region IX	Region X
Number of FYSB Grantees Per Region:		
	Arizona	Alaska
	California	Idaho
Region IX—82	Hawaii	Oregon
Region X—38	Nevada	Washington
	America Samoa	
	Guam	
	Northern Marianas	
	Marshall Islands	
	Micronesia	

BILLING CODE 4184–01–P

Appendix I. Forms and Instructions

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

	2. DATE SUBMITTED	Applicant Identifier
1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, State, and zip code):*	Name and telephone number of person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER *(EIN):*

☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other*(specify):*

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐ – ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(Cities, Counties, States, etc.):*

13. PROPOSED PROJECT		**14. CONGRESSIONAL DISTRICTS OF:**	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Type Name of Authorized Representative	b. Title	c. Telephone Number
d. Signature of Authorized Representative		e. Date Signed

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Standard Form 424 (Rev. 7-97)
Prescribed by OMB Circular A-102

BILLING CODE 4184–01–C

Instructions for the SF–424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0043), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).

3.State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

—''New'' means a new assistance award.

—''Continuation'' means an extension for an additional funding/budget period for a project with a projected completion date.

—''Revision'' means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g. State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4184–01–M

BUDGET INFORMATION - Non-Construction Programs

OMB Approval No. 0348-004

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. Totals		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total
	(1)	(2)	(3)	(4)	(5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges *(sum of 6a-6h)*					
j. Indirect Charges					
k. TOTALS *(sum of 6i and 6j)*	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (Rev. 7-97)
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SECTION C - NON-FEDERAL RESOURCES				
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTAL *(sum of lines 8-11)*	$	$	$	$

SECTION D - FORECASTED CASH NEEDS					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL *(sum of lines 13 and 14)*	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTAL *(sum of lines 16-19)*	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION	
21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

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Standard Form 424A (Rev. 7-97) Page 2

Instructions for the SF–424A

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0044), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET, SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

General Instructions

This form is designed so that application can be made for funds from one of or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function of activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B.

Section A. Budget Summary Lines 1–4 Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the Catalog program title and the Catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple functions or activities, enter the name of each activity or function on each line Column (a), and enter the Catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the Catalog program title on each line in Column (a) and the respective Catalog number on each line Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) Through (g)

For new applications, leave Column (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and(d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which include the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown (in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B. Budget Categories

In the column headings (1) through (4) enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Line 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Line 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount, Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8–11 Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are include, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Colmn (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year to existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Administration for Children and Families, U.S. Department of Health and Human Services

Certification Regarding Drug-Free Workplace Requirements

This certification is required by the regulations implementing the Drug-Free

Workplace Act of 1988: 45 CFR Part 76, Subpart F. Sections 76.630(c) and (d)(2) and 76.645(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central pint is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517–D, 200 Independence Avenue, SW., Washington, DC 20201.

Certification Regarding Drug-Free Workplace Requirements (Instructions for Certification)

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. For grantees other than individuals, Alternate I applies.

4. For grantees who are individuals, Alternate II applies.

5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).

8. Definitions of terms in the Nonprocurement Suspension and Debarment Common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact of involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Certification Regarding Drug-Free Workplace Requirements

Alternate I. (Grantees Other Than Individuals)

The Grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about——

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will——

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted——

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f);

(B) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

Alternate II (Grantees Who Are Individuals)

(a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;

(b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

[55 FR 21690, 21702, May 25, 1990]

Administration for Children and Families U.S. Department of Health and Human Services

Certification Regarding Debarment, Suspension and Other Responsibility Matters

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination

whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,'' provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not present indicted for or otherwise criminally or civilly charged by a governmental entity (Federal State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, [[Page 33043]] should the proposed covered transaction be entered into, it shall not knowingly enter in any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,'' without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded for covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or

voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility an Voluntary Exclusion—Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Administration for Children and Families U.S. Department of Health and Human Services

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____

Signature

_____

Title

_____

Organization

Administration for Children and Families, U.S. Department of Health and Human Services

Certification Regarding Environmental Tobacco Smoke

Public Law 103227, Part C Environmental Tobacco Smoke, also known as the Pro Children Act of 1994, requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity. By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act.

The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

[FR Doc. 99–10895 Filed 4–29–99; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–0926]

Agency Information Collection Activities: Proposed Collection; Comment Request; Regulations Under the Federal Import Milk Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on reporting and recordkeeping requirements implementing the Federal Import Milk Act.

DATES: Submit written comments on the collection of information by June 29, 1999.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (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. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an

existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA'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 respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Regulations Under the Federal Import Milk Act—21 CFR Part 1210 (OMB Control Number 0910–0212—Extension)

Under the regulations (part 1210 (21 CFR part 1210)) implementing the Federal Import Milk Act (21 U.S.C. 141–149), milk or cream may be imported into the United States only by the holder of a valid import milk permit. Before such permit is issued: (1) All cows from which import milk or cream is produced must be physically examined and found healthy; (2) if the milk or cream is imported raw, all such cows must pass a tuberculin test; (3) the dairy farm and each plant in which the milk or cream is processed or handled must be inspected and found to meet certain sanitary requirements; (4) bacterial counts of the milk at the time of importation must not exceed specified limits; and (5) the temperature of the milk or cream at time of importation must not exceed 50 °F. In addition, the regulations require that dairy farmers and plants maintain pasteurization records (§ 1210.15) and that each container of milk or cream imported into the United States bear a tag with the product type, permit number, and shipper's name and address.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Form	21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
FDA 1815/Permits granted on certificates	1210.23	4	1	4	0.5	2.0
FDA 1993/Application of permit	1210.20	4	1	4	0.5	2.0
FDA 1994/Tuberculin test[2]	1210.13	-	-	-	-	-
FDA 1995/Physical examination of cows[2]	1210.12	-	-	-	-	-
FDA 1996/Sanitary inspection of dairy farms	1210.11	4	1	800	1.5	1200.0
FDA 1997/Sanitary inspections of plants	1210.14	4	1	4	2.0	8.0
Total						1212.0

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] No burden has been estimated for Forms FDA 1994 and 1995 because they are not currently being used.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
1210.15	4	1	4	0.05	0.20

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

No burden has been estimated for the tagging requirement in § 1210.22 because the information on the tag is either supplied by FDA (permit number) or is disclosed to third parties as a usual and customary part of the shipper's normal business activities (type of product, shipper's name and address). No burden has been estimated for Forms FDA 1994 and 1995 because they are not currently being used. The Secretary of Health and Human Services has the discretion to allow Form FDA 1815, a duly certified statement signed by an accredited official of a foreign Government, to be submitted in lieu of Forms FDA 1994 and 1995. To date, Form FDA 1815 has been submitted in lieu of these forms.

Dated: April 23, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–10796 Filed 4–29–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–0780]

Agency Information Collection Activities: Proposed Collection; Comment Request for Food Canning Establishment Registration, Process Filing and Recordkeeping for Acidified Foods and Thermally Processed Low-Acid Foods in Hermetically Sealed Containers

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995, (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on reporting and recordkeeping requirements for firms that process acidified foods and thermally processed low-acid foods in hermetically sealed containers.

DATES: Submit written comments on the collection of information by June 29, 1999.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (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. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth below.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA'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 respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Food Canning Establishment Registration, Process Filing and Recordkeeping for Acidified Foods and Thermally Processed Low–Acid Foods in Hermetically Sealed Containers (21 CFR 108.25(c)(1) and (c)(2), (d), (e), (g); 108.35(c)(1), (c)(2), (d), (e), (f), (h); 113.60(c); 113.83; 113.87; 113.89; 113.100; 114.80(b); 114.89; 114.100(a) through (d)) (OMB Control Number 0910–0037—Extension).

Under section 402 of the Federal Food, Drug and Cosmetic Act (the act), FDA is authorized to prevent the interstate distribution of food products that may be injurious to health or that are otherwise adulterated (21 U.S.C. 342). Under the authority granted to FDA by section 404 of the act (21 U.S.C. 344), FDA's regulations require registration of food processing establishments, filing of process or other data, and maintenance of processing and production records for acidified foods and thermally processed low-acid foods in hermetically sealed containers. These requirements are intended to ensure safe manufacturing, processing, and packing procedures and to permit FDA to verify that these procedures are being followed. Improperly processed low-acid foods present life-threatening hazards if contaminated with foodborne microorganisms, especially *Clostridium botulinum*. The spores of *C. botulinum* must be destroyed or inhibited to avoid production of the deadly toxin that causes botulism. This is accomplished with good manufacturing procedures, which must include the use of adequate heat processes or other means of preservation.

To protect the public health, FDA's regulations require that each firm that manufactures, processes or packs acidified foods or thermally processed low-acid foods in hermetically sealed containers for introduction into interstate commerce register the establishment with the agency using Form FDA 2541 (§§ 108.25(c)(1) and 108.35(c)(2)) (21 CFR 108.25(c)(1) and 108.35(c)(2))). In addition to registering the plant, each firm is required to provide data on the processes used to produce these foods, using Form FDA 2541a for all methods except aseptic processing, or Form FDA 2541c for aseptic processing of low-acid foods in hermetically sealed containers §§ 108.25(c)(2) and 108.35(c)(2)). Plant registration and process filing may be accomplished simultaneously. Process data must be filed prior to packing any new product and operating processes and procedures must be posted near the processing equipment or made available to the operator (21 CFR 113.87(a)).

Regulations in parts 108, 113, and 114 (21 CFR parts 108, 113, and 114) require firms to maintain records showing adherence to the substantive requirements of the regulations. These records must be made available to FDA on request. Firms are also required to document corrective actions when process controls and procedures do not fall within specified limits (§§ 113.89, 114.89, and 114.100(c)); to report any instance of potential health-endangering spoilage, process deviation, or contamination with microorganisms where any lot of the food has entered distribution in commerce (§§ 108.25(d) and 108.35(d) and (e)); and to develop and keep on file plans for recalling products that may endanger the public health (§§ 108.25(e) and 108.35(f)). To permit lots to be traced after distribution, acidified foods and thermally processed low-acid foods in hermetically sealed containers must be marked with an identifying code (§§ 113.60(c) (thermally processed foods) and 114.80(b) (acidified foods)).

FDA estimates the burden of complying with the information collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Form No.	CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Form FDA 2541 (Registration)	108.25 (c)(1) and 108.35(c)(1)	300	1	300	.17	51

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]—Continued

Form No.	CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Form FDA 2541a (Process Filing)	108.25 (c)(2) and 108.35(c)(2)	1,000	6.5	6,500	.333	2,165
Form FDA 2541c (Process Filing)	108.35(c)(2)	1,000	.50	500	.75	375
Total						2,591

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Part	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
108, 113, and 114	5,865	1	5,865	250	1,466,250

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The reporting burden for §§ 108.25(d) and 108.35(d) and (e) is insignificant because notification of spoilage, process deviation, or contamination of product in distribution occurs less than once a year. Most firms discover these problems before the product is distributed and, therefore, are not required to report the occurrence. To avoid double counting, estimates for §§ 108.25(g) and 108.35(h) have not been included because they merely cross-reference recordkeeping requirements contained in parts 113 and 114.

Dated: April 23, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–10797 Filed 4–29–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0320]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Notification of a Health Claim or a Nutrient Content Claim Based on an Authoritative Statement

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by June 1, 1999.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance.

Notification of a Health Claim or a Nutrient Content Claim Based on an Authoritative Statement (OMB Control Number 0910–0374—Extension)

Section 403(r)(2)(G) and (r)(3)(C) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 343(r)(2)(G) and (r)(3)(C)), as amended by the FDA Modernization Act of 1997, provides that a food producer may market a food product whose label bears a nutrient content claim or a health claim that is based on an authoritative statement of certain scientific bodies of the Federal Government or of the National Academy of Sciences or any of its subdivisions. Under these sections of the act, a food producer may use such a claim in the labeling of an appropriate product 120 days after a complete notification of the claim is submitted to FDA.

In the **Federal Register** of June 11, 1998 (63 FR 32102), FDA announced the availability of a guidance entitled ''Guidance for Industry: Notification of a Health Claim or Nutrient Content Claim Based on an Authoritative Statement of a Scientific Body'' (hereinafter referred to as ''the guidance''). As stated in that guidance, under section 403(r)(2)(G) and (r)(3)(C) of the act, a notification is to include: (1) The exact words used in the claim, (2) a concise description of the basis upon which the submitter relied for determining that the requirements for an authoritative statement have been satisfied, (3) a copy of the statement upon which the submitter relied in making the claim, and (4) for a health claim, a balanced representation of the scientific literature relating to the relationship between a nutrient and a disease or health-related condition to which the claim refers, or, for a nutrient content claim, a balanced representation of the scientific literature relating to the nutrient level to which the claim refers.

The guidance provides the agency's interpretation of terms central to the submission of a notification and the agency's views on the information that should be included in such a notification. In addition to the information specifically required by the act to be such a notification, the guidance states that a notification should also contain information on analytical methodology for the nutrient that is the subject of a claim based on an authoritative statement. Further, the guidance explains that to present a balanced representation of the scientific literature, as required by statute, a bibliography of the scientific literature on the topic of the claim should be compiled. The guidance also states that

a brief, balanced account or analysis of how this literature either supports or fails to support that authoritative statement should be submitted.

The information collection provisions contained in the guidance received emergency approval from OMB under control number 0910–0374. The emergency approval expires on June 30, 1999. FDA is now seeking an extension of the OMB approval.

As part of this process, the agency requested comments on the proposed collection of information in the **Federal Register** of August 13, 1998 (63 FR 43400; corrected at 63 FR 49130, September 14, 1998).

One comment was submitted by a food industry association. This comment addressed several points, only some of which were relevant to the information collection provisions contained in the guidance. Most of the other points were relevant to a group of interim final rules the agency issued in June 1998 in response to a notification for nine claims based on authoritative statements; these points will be addressed in the rulemakings to which they pertain. The points in the comment that are relevant to the information collection provisions in the guidance are discussed in the following paragraphs.

The comment first stated that the guidance goes further than provided by the statute in two respects: First, in the guidance's request that notifications include a ''potentially burdensome'' account or analysis of how the scientific literature relating to the relationship between a nutrient and a disease or health-related condition or to the nutrient level to which the claim refers either supports or fails to support the authoritative statement, and second, in the guidance's request that information on analytical methodology for the nutrient that is the subject of the claim be submitted. The comment expressed the opinion that, although the kind of information identified by the guidelines may be useful to FDA and could be submitted voluntarily, the information should not be a mandatory element of a notification; moreover, the lack of such information should not be the basis for prohibiting a health claim based on an authoritative statement. The comment stated that notifications should not impose any significant regulatory burden on manufacturers, adding that, as a general matter, it would object to any expansion of information required as part of a notification.

First, the agency notes that neither the account of the scientific literature relating to the claim nor the information about analytical methodology is described in the guidance as a mandatory element of a notification. In both cases, the agency uses the term ''should'' to convey its view that the inclusion of such information is desirable. Further, the guidance states explicitly, ''An alternative approach may be used if such approach satisfies the requirement of the applicable statute, regulations, or both. ''

Second, the agency does not believe that providing the account of the relevant scientific information and the analytical methodology are overly burdensome. FDA believes that most companies would prepare an account of the scientific literature that supports or fails to support a claim in the normal course of evaluating potential claims based on authoritative statements and making the business decision of whether to use such claims in the marketing of their products. Similarly, FDA believes that most companies would be knowledgeable about the analytical methodologies that might be used to determine the amount of a nutrient or other substance present in their products. The agency recognizes that including such information in a notification causes some burden. The agency provided an estimate of this burden in the August 13, 1998, notice. This estimate also appears in Table 1 of this document. No comments were submitted addressing the accuracy of this estimate.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Guidance for Notification	12	5	60	1	60

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The agency believes that this guidance will enable food producers to meet the criteria for notifications that are established in section 403(r)(2)(G) and (r)(3)(C) of the act during the interim period while the agency is initiating notice-and-comment rulemaking to implement those sections of the act. FDA intends to review the notifications it receives to ensure that they comply with the criteria established for them by the act.

These estimates are based on FDA's experience with health claims and nutrient content claims and with other similar notification procedures that fall under its jurisdiction. Because the claims are based on authoritative statements of certain scientific bodies of the Federal Government or the National Academy of Sciences or one of its subdivisions, FDA believes that the information submitted with a notification will be either provided as part of the authoritative statement or readily available to firms wishing to make claims.

The hour burden estimates contained in Table 1 of this document are for the information collection requests in the guidance only and do not include statutory requirements specifically mandated by the act.

Dated: April 23, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–10792 Filed 4–29–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99F–1074]

Life Technologies, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Life Technologies, Inc. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of quaternary amine cellulose ion exchange resins in the isolation and purification of protein

concentrates and isolates from aqueous process streams for food processing.

FOR FURTHER INFORMATION CONTACT: Martha D. Peiperl, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3077.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 9A4659) has been filed by Life Technologies, Inc., 9800 Medical Center Dr., Rockville, MD 20850–3321. The petition proposes to amend the food additive regulations in § 173.25 *Ion-exchange resins* (21 CFR 173.25) to provide for the safe use of quaternary amine cellulose ion exchange resins in the isolation and purification of protein concentrates and isolates from aqueous process streams for food processing.

The agency has determined under 21 CFR 25.32(j) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: April 19, 1999.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–10918 Filed 4–29–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 90F–0018]

Rohm and Haas Co.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 0B4189) proposing that the food additive regulations be amended to provide for the expanded use of n-alkylglutarimide/acrylic copolymers as articles or components of articles intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of February 9, 1990 (55 FR 4690), FDA announced that a food additive petition (FAP 0B4189) had been filed by Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105 (currently c/o Keller and Heckman, 1001 G St. NW., suite 500 West, Washington, DC 20001). The petition proposed to amend the food additive regulations in § 177.1060 *n-Alkylglutarimide/acrylic copolymers* (21 CFR 177.1060) to provide for the expanded use of *n*-alkylglutarimide/acrylic copolymers as articles or components of articles intended for use in contact with food also under the conditions of use A, B, and C described in Table 2 of 21 CFR 176.170(c). Rohm and Haas Co. has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: April 2, 1999.

Laura M. Tarantino,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–10794 Filed 4–29–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98E–0488]

Determination of Regulatory Review Period for Purposes of Patent Extension; Gonal–F®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Gonal–F® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6620.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Gonal–F® (follitropin alpha/beta). Gonal–F® is indicated for the induction of ovulation and pregnancy in the anovulatory infertile patient in whom he cause of infertility is functional and not due to primary ovarian failure; and for the development of multiple follicles in the ovulatory patient participating in an Assisted Reproductive Technology (ART) program. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Gonal–F® (U.S. Patent No. 5,156,957) from Genzyme Corp., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated December 14, 1998, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Gonal–F® represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office

requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Gonal–F® is 2,044 days. Of this time, 569 days occurred during the testing phase of the regulatory review period, while 1,475 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) became effective*: February 26, 1992. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on February 26, 1992.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act*: September 16, 1993. FDA has verified the applicant's claim that the new drug application (NDA) for Gonal–F® (NDA 20–378) was initially submitted on September 16, 1993.

3. *The date the application was approved*: September 29, 1997. FDA has verified the applicant's claim that NDA 20–378 was approved on September 29, 1997.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,605 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 29, 1999, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 27, 1999, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 20, 1999.

Thomas J. McGinnis,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 99–10846 Filed 4–29–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98E–0846]

Determination of Regulatory Review Period for Purposes of Patent Extension; Apligraf™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Apligraf™ and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that medical device.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6620.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For medical devices, the testing phase begins with a clinical investigation of the device and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the device and continues until permission to market the device is granted. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a medical device will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(3)(B).

FDA recently approved for marketing the medical device Apligraf™. Apligraf™ is indicated for use with standard therapeutic compression in the treatment of uninfected partial and/or full-thickness skin loss ulcers due to venous insufficiency of greater than 1 month duration and which have not adequately responded to conventional ulcer therapy. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Apligraf™ (U.S. Patent No. 4,485,096) from Organogenesis, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated December 16, 1998, FDA advised the Patent and Trademark Office that this medical device had undergone a regulatory review period and that the approval of Apligraf™ represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Apligraf™ is 4,013 days. Of this time, 3,051 days occurred during the testing phase of the regulatory review period, while 962 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date a clinical investigation involving this device was begun*: May 29, 1987. The applicant claims that the investigational device exemption (IDE) required under section 520(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(g)) for human tests to begin became effective on July 2, 1987. However, FDA records indicate that the IDE was determined substantially complete for clinical studies to have begun on May 29, 1987, which represents the IDE effective date.

2. *The date the application was initially submitted with respect to the device under section 515 of the act (21 U.S.C. 360e)*: October 4, 1995. FDA has verified the applicant's claim that the

premarket approval application (PMA) for Apligraf™ (PMA P950032) was initially submitted on October 4, 1995.

3. *The date the application was approved*: May 22, 1998. FDA has verified the applicant's claim that PMA P950032 was approved on May 22, 1998.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,826 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 29, 1999, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 27, 1999, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 20, 1999.

Thomas J. McGinnis,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 99–10795 Filed 4–29–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Subcommittee Meeting of the Advisory Committee for Reproductive Health Drugs; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Subcommittee of the Advisory Committee for Reproductive Health Drugs, Pregnancy Labeling.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 3, 1999, 8 a.m. to 5 p.m..

Location: Holiday Inn, Kennedy Grand Ballroom, 8777 Georgia Ave., Silver Spring, MD 20910–3763.

Contact Person: Kimberly L. Topper, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD, 301–827–7001, FAX 301–827–6776, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12537. Please call the Information Line for up-to-date information on this meeting.

Agenda: The subcommittee will discuss possible changes to pregnancy labeling as a result of the September 12, 1997, part 15 (21 CFR part 15) public hearing (see 62 FR 41061), the development of various draft guidance documents, and risk communications.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by May 21, 1999. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before May 21, 1999, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: April 23, 1999.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 99–10799 Filed 4–29–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–0872]

Revocation of Office of Generic Drug's Interim Policy Statement on Inactive Ingredients

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is revoking an interim policy statement on inactive ingredients in parenteral, ophthalmic, otic, and topical generic drug products (Interim Inactive Ingredient Policy). These generic drug products are the subjects of abbreviated new drug applications (ANDA's). The Interim Inactive Ingredient Policy was issued as a memorandum from the Acting Director of the Center for Drug Evaluation and Research's (CDER's) Office of Generic Drugs, FDA, to CDER's Associate Director for Science and Medical Affairs, FDA. FDA is taking this action because the Interim Inactive Ingredient Policy no longer represents current agency policy.

EFFECTIVE DATE: April 30, 1999.

ADDRESSES:

Address questions about individual applications to the Regulatory Support Branch, Center for Drug Evaluation and Research (HFD–615), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–5862.

Address questions about the use of inactive ingredients in a drug product for which you plan to submit an ANDA to the Office of Generic Drugs, Center for Drug Evaluation and Research (HFD–600), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–5845.

FOR FURTHER INFORMATION CONTACT: Rita R. Hassall, Office of Generic Drugs (HFD–600), Center for Drug Evaluation and Research, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–5845.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. No. 98–417) (the Hatch-Waxman Amendments) established procedures for approval of ANDA's for drug products that are generic versions of previously approved drug products. In the **Federal Register** of April 28, 1992 (57 FR 17950), FDA

published regulations implementing provisions of the Hatch-Waxman Amendments. After publication of these regulations, FDA's Office of Generic Drugs issued the Interim Inactive Ingredient Policy on November 17, 1994, to provide additional guidance on inactive ingredients in drug products that were the subjects of ANDA's. (This policy statement was issued as a memorandum and was not published in the **Federal Register**.)

After 4 years of experience and new considerations raised by both the agency and regulated industry, FDA has concluded that the policies contained in the Interim Inactive Ingredient Policy no longer represent current agency thinking on many of the issues discussed in the document. Therefore, FDA has decided to revoke the Interim Inactive Ingredient Policy.

The Office of Generic Drugs is developing a draft guidance regarding inactive ingredients in drug products that are the subject of ANDA's. This guidance will be issued under FDA's good guidance practices described in a notice published in the **Federal Register** of February 27, 1997 (62 FR 8961). Until the guidance is issued, applicants who have questions about the use of inactive ingredients in a drug product for which they plan to submit an ANDA should contact the Office of Generic Drugs (address above).

Dated: April 23, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–10798 Filed 4–29–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Preclinical Pharmacology Studies of Anti-Tumor and Anti-AIDS Agents.

Date: May 20–21, 1999.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Lalita D. Palekar, PhD, Scientific Review Administrator, Special Review, Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard/EPN–622B, Rockville, MD 20892–7405, 301/496–7575.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: April 26, 1999.

Anna Snouffer,

Acting Committee Management Officer, National Institutes of Health.

[FR Doc. 99–10926 Filed 4–29–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel—The Hepatitis Animal Model Network.

Date: May 27–28, 1999.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Gaithersburg, Washington Room, 2 Montgomery Village Avenue, Gaithersburg, MD 20879.

Contact Person: Lucia I. Gonzalez, PhD., Scientific Review Administrator, Division of Extramural Activities, NIAID, Scientific Review Program, Solar Building, Room 4C20, 6003 Executive Boulevard, Bethesda, MD 20892, 301–496–8424, lg122e@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: April 26, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy, National Institutes of Health.

[FR Doc. 99–10920 Filed 4–29–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–7 (M1)P.

Date: May 6–7, 1999.

Time: May 6, 1999, 8:30 a.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Lakshmanan Sankaran, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building, Room 6AS–37, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7799.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–D C2.

Date: May 20, 1999.
Time: 1:00 p.m. to Adjournment.
Agenda: To review and evaluate contract proposals.
Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 6, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Richard A. Pledger, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building, Room 6AS37F, National Institutes of Health, Bethesda, MD 20892, (301) 594–8886.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: April 26, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–10921 Filed 4–29–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Computerized Neuropsychological Testing Software.
Date: April 28, 1999.
Time: 10:30 a.m. to 12:30 p.m.
Agenda: To review and evaluate contract proposals.
Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Eric Zatman, Contract Review Specialist, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1438.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Development of a Management Information System on Ethnic Specific Factors in the Etiology of Drug Abuse.
Date: May 14, 1999.
Time: 2:00 p.m.to 4:00 p.m.
Agenda: To review and evaluate contract proposals.
Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Eric Zatman, Contract Review Specialist, Office of Extramural Program Review, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1438.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: April 26, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–10922 Filed 4–29–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel—National Cooperative Drug Discovery Groups—Opportunistic Infections.
Date: June 4–5, 1999.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Gaithersburg, The Washington Room, 2 Montgomery Village Avenue, Gaithersburg, MD 20879.
Contact Person: Vassil S. Georgiev, PhD, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Solar Building, Room 4C04, 6003 Executive Boulevard MSC 7610, Bethesda, MD 20892–7610, 301–496–8206.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Date: April 26, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy, National Institutes of Health.

[FR Doc. 99–10923 Filed 4–29–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel National Cooperative Drug Discovery Groups-Opportunistic Infections-R01.
Date: June 10–11, 1999.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Gaithersburg, the Goshen Room, 2 Montgomery Village Avenue, Gaithersburg, MD 20879.
Contact Person: Vassil S Georgiev, PhD., Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Solar Building, Room 4C04, 6003 Executive Boulevard MSC 7610, Bethesda, MD 20892–7610, 301–496–8206.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: April 26, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy, National Institute of Health.

[FR Doc. 99–10924 Filed 4–29–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: May 13, 1999.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate contract proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Phillip F. Wiethorn, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: May 14, 1999.

Time: 10 a.m. to 11 a.m.

Agenda: To review and evaluate contract proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Phillip F. Wiethorn, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: April 26, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–10927 Filed 4–29–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel IFCN 6.

Date: April 27, 1999.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Joseph Kimm, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178 MSC 7844, Bethesda, MD 20892, (301) 435–1249.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel ZRG1–BDCN–1 (08)S.

Date: April 28, 1999.

Time: 12 p.m. to 12:45 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Joe Marwah, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5188, MSC 7846, Bethesda, MD 20892, (301) 435–1253.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel IFCN 6.

Date: April 29, 1999.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Joseph Kimm, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178 MSC 7844, Bethesda, MD 20892, (301) 435–1249.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: May 7, 1999.

Time: 10 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Joseph Kimm, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178 MSC 7844, Bethesda, MD 20892, (301) 435–1249.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Dated: April 26, 1999.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Anna Snouffer,

Acting Committee Management Officer, National Institutes of Health.

[FR Doc. 99–10925 Filed 4–29–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4432–N–17]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: April 30, 1999.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7256, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: April 22, 1999.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 99–10485 Filed 4–29–99; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4434–N–02]

Quality Housing and Work Responsibility Act of 1998; Update on Initial Guidance and Clarification and Technical Corrections

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: On February 18, 1999, HUD published a Notice of Initial Guidance on the Quality Housing and Work Responsibility Act of 1998. This new statute, part of HUD's fiscal year 1999 HUD Appropriations Act, embodies many of the reforms of the HUD 2020 Management Reform Plan that are directed at revitalizing and improving HUD's public housing and Section 8 assistance programs. The February 18, 1999 Notice advised the public of those public and assisted housing statutory provisions that are effective immediately and action that may or should be taken immediately. The February 18, 1999 Notice also provided guidance on certain other provisions in the FY 1999 HUD Appropriations Act that impact public housing programs and Section 8 assistance.

This second Notice provides clarification and corrections for certain guidance provided in the February 18, 1999 Notice, and provides guidance on a statutory provision not addressed in the February 18, 1999 Notice.

FOR FURTHER INFORMATION CONTACT: For further information regarding public housing and the Section 8 certificate, voucher and moderate rehabilitation programs contact Rod Solomon, Deputy Assistant Secretary for Policy, Program and Legislative Initiatives, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4116, Washington, DC, 20410; telephone (202) 708–0713 (this is not a toll-free number). For further information regarding other Section 8 programs contact Willie Spearmon, Director, Office of Multifamily Business Products; telephone (202) 708–3000. Persons with hearing or speech impairments may access that number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Program specialists for more specific HUD program areas are listed on the HUD web page at http://hudweb.hud.gov/offices.html.

SUPPLEMENTARY INFORMATION: The Quality Housing and Work Responsibility Act of 1998 (title V of the FY 1999 HUD Appropriations Act; Pub. L. 105–276, 112 Stat. 2461, approved October 21, 1999) (QHWRA)) enacts landmark measures that include transforming public housing, deconcentrating poverty, creating additional housing assistance vouchers, merging the Section 8 certificate and voucher programs, and enabling more families to obtain FHA mortgages to become homeowners. Although the QHWRA makes significant and numerous amendments to the United States Housing Act of 1937 (USHA), the USHA remains in effect except as amended by the QHWRA.

On February 18, 1999 (64 FR 8192), HUD published a Notice of Initial Guidance on the QHWRA. The purpose of the February 18, 1999 Notice was to advise HUD's public housing and Section 8 program partners, as well as members of the public, of certain provisions of the QHWRA that are effective immediately and to provide guidance with respect to actions that may now be taken or should be taken by PHAs and owners of Section 8 assisted projects. The February 18, 1999 Notice, however, did not provide guidance on all QHWRA sections. The February 18, 1999 Notice addressed those key statutory sections that are effective immediately, and which HUD believed would be helpful to PHAs and others to receive early guidance.

This second Notice provides clarification on and corrections to certain provisions in the February 18, 1999 Notice, and provides guidance on a QHWRA statutory provision not addressed in the February 18, 1999 Notice.

Section I. Corrections and Clarifications to the February 18, 1999 Notice

Section 507—Minimum Rent for Public Housing and Section 8 Assistance

Section 507 amends section 3(a) of the USHA which addresses minimum rents for public housing and section 8 assistance. In the guidance provided for section 507 at page 8197 (last column), HUD advised that as soon as practicable, the PHA must notify all families of the right to request a minimum rent hardship exemption under the law, and that determinations are subject to the grievance procedure.

Clarification. This Notice clarifies that the notification to be provided to families regarding hardship exemptions (which should have occurred already) can be to families subject to minimum rents or subject to minimum rents at some time since enactment of the QHWRA, but not literally to ''all'' families as stated in the February 18, 1999 Notice. Families who become subject to minimum rents also must receive this notification. In addition, the title ''Action Guidance for Section 8 Certificate, Voucher and Moderate Rehabilitation Programs'' is revised to read: ''Action Guidance for the Section 8 Programs'' to correct an inadvertent error. The minimum rent guidance applicable to the tenant-based and moderate rehabilitation programs also applies to all the other Section 8 programs.

Section 513—Public Housing Income Targeting

Section 513 amends section 16 of the USHA to establish, among other things, public housing deconcentration requirements, annual requirements for admitting families with incomes below thirty percent (30%) of area median income, and related income targeting requirements. The guidance for this section was provided at pages 8199 to 8200.

In the guidance provided for Section 513, HUD noted in paragraph (1)(b) on page 8200 (first column) that there are three further limitations on a PHA's use of fungibility with respect to income targeting for public housing. (''Fungibility'' refers to the fact that to a certain extent, the PHA can credit section 8 tenant-based admissions above the minimum targeting requirements to satisfy its public housing targeting requirements.) The February 18, 1999 guidance provided that fungibility ''credits'' only can be used to drop the annual requirement for housing very poor families, as described above, below 40 percent of newly available units in public housing, by the lowest of three amounts. These three amounts were described in the notice at page 8200, under paragraphs designated (1)(a), (b) and (c). The amount provided by paragraph (1)(b) was the number of units that (i) are in projects located in census tracts having a poverty rate of 30% or more, and (ii) are made available for occupancy by and actually occupied by very poor families.

Correction. Paragraph (1)(b) in the first column of page 8200 should have read as follows:

(b) The number of public housing units that (i) are in public housing projects located in census tracts having a poverty rate of 30% or more, and (ii) are made available for occupancy by, and actually occupied in that year by, families other than very poor families.

Section 514—Repeal of Federal Preferences in the Public Housing and Section 8 Programs

Section 514 provides for the permanent repeal of Federal preferences, including the permanent repeal of the right of certain public housing residents to retain federal preference status on the Section 8 certificate and voucher waiting list; and also authorizes local preferences. (The elimination of the previous statutory preference for the admission of elderly, disabled and displaced persons before other single persons in the public housing and Section 8 programs was accomplished by section 506 rather than section 514.)

In the guidance for this section on page 8201 (first column) HUD advised, among other things, that because there is no indication in the QHWRA that Congress intended to disrupt existing local preferences, existing local preferences may remain without further immediate PHA action or may be altered in the manner authorized before enactment of the QHWRA.

Clarification. HUD wishes to clarify that with respect to the manner in which existing local preferences were authorized to be altered before the enactment of QHWRA, HUD is referring to the manner authorized under prior HUD appropriations acts. For the purposes of selecting families from the waiting list, prior HUD appropriations acts provided that a PHA may establish, after public notice and an opportunity for public comment, a written system of preferences for selection that is not inconsistent with the comprehensive housing affordability strategy (consolidated plan) of either the State or local general government of the PHA's jurisdiction.

Section 535—Demolition, Site Revitalization, Replacement Housing, and Tenant-Based Assistance Grants for Public Housing Projects

Section 535 amends section 24 of the USHA and provides the continued authority for the HOPE VI program, and establishes application selection and grant requirements.

In the guidance for this section on page 8204 (first column), HUD noted the exemption from the requirements of section 18 of the USHA for severely distressed public housing that is demolished in accordance with a revitalization plan.

Clarification. HUD wishes to clarify that where HOPE VI funds are awarded for demolition only, no revitalization plan is required, and therefore there is no exemption from the requirements of section 18 of the USHA.

Section II—New Guidance

Section 564—Public Housing Management Assessment Program

Section 564 makes several amendments to section 6(j) of the USHA. One of these amendments excludes small PHAs (PHAs with less than 250 units) from an independent assessment that otherwise would be required once a small PHA has been designated as troubled. Section 6(j)(2)(B)(i) limits this independent assessment to PHAs with more than 250 units.

Action Guidance. Section 6(j)(2)(B)(i) is effective immediately

Section III—Future Guidance

As HUD noted in the February 18, 1999 Notice, the QHWRA makes significant changes to HUD's public housing and Section 8 programs. With many of the changes immediately effective, substantial responsibility is placed on PHAs and Section 8 owners to implement these changes promptly. HUD remains committed to working closely with its public housing and Section 8 partners to make the changes in its public housing and Section 8 programs a success. HUD will continue to provide any additional guidance that may be needed through direct notices to PHAs and Section 8 owners, additional **Federal Register** notices, or through other means that may be determined appropriate.

Dated: April 22, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 99–10733 Filed 4–29–99; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget for Renewal Under the Paperwork Reduction Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We have submitted the information collection requirements to evaluate visitor responses to the recreation fee demonstration program in our National Wildlife Refuges to OMB for approval under the provisions of the Paperwork Reduction Act of 1995.

DATES: Submit comments on or before June 1, 1999.

ADDRESSES: Send comments and suggestions on specific requirements directly to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of the Interior Desk Officer, 725 17th Street, NW, Washington, DC 20503; and a copy to our Information Collection Clearance Officer, U.S. Fish and Wildlife Service [MS 222 ARLSQ], 1849 C Street, NW, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Doug Staller, Chief, Branch of Visitor Services, Division of Refuges, (703) 358–2029; or Dr. Jonathan G. Taylor, Research Social Scientist, U.S.

Geological Survey, Fort Collins, CO (970) 226–9438.

SUPPLEMENTARY INFORMATION: We submitted the following proposed information collection clearance requirement to OMB for review and approval under the Paperwork Reduction Act of 1995, Pub. L. 104–13. OMB has up to 60 days to approve or disapprove information collection. To ensure maximum consideration, OMB should receive public comments by June 1, 1999. We 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. We previously published a 60-day notice inviting public comment on this information collection in the **Federal Register** on February 16, 1999 (64 FR 7661).

We invite comments on: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden, including 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.

Congress authorized a recreation fee demonstration program in Pub. L. 104–134. We were one of the four agencies mandated to implement the program and evaluate its impact on the visiting public. We designed this study to scientifically evaluate visitor reactions and impact of the fees on visitation to the national wildlife refuges (NWR); U.S. Geological Survey, Biological Resources Division, Social Economic and Institutional Analysis Section will conduct the survey under a cooperative agreement with us.

Although we planned to end this survey on December 15, 1998 with a joint report issued on March 31, 1999, a November, 1998 GAO report (GAO-RCED–99–7) recommended that only one year of data collection for the recreation fee demonstration program was insufficient. GAO concluded that this collection should continue for further evaluation. Section 328 of H.R. 4193 (subsequently in FY 1999 Interior appropriations) authorized extension of the program through FY 2001.

To represent the various types of fee changes as well as fee demonstration refuges, we selected six distinct fee programs and nine refuges for inclusion in the study. These include (1) New entrance fees [Sacramento NWR, CA and Aransas NWR, TX]; (2) increased entrance fees [Dungeness NWR, WA]; (3) new annual passes [Chincoteague NWR, VA and Crab Orchard NWR, IL]; (4) new hunt fees [St. Catherine's Creek NWR, MS and Balcones Canyonlands NWR, TX]; (5) non-hunt use permits [Buenos Aires NWR, AZ] and (6) non-fee adjustments [Piedmont NWR, GA]. We will survey random samples of individuals using these refuges. We plan to use as part of the evaluation process a survey questionnaire to assess the different fee programs. We will distribute an on-site questionnaire during the peak season to a random sample of the visiting public and obtain a minimum of 400 completed surveys for each fee type. We will obtain additional information from Sacramento NWR to allow for examination of credit card entrances as well as new entrance fees in general. We will ask no questions of the participants, simply note payment by credit card. Overall, this will result in a total sample of 2,400 respondents. The margin of error for each fee type is ±5% at the 95% confidence level. The information gained from this survey will provide a viability of the fee program among the visiting public. The lead project officer is Dr. Jonathan G. Taylor, Research Social Scientist, phone 970/226/9438, 4512 McMurry Avenue, Fort Collins, CO 80525–3400.

Title: Evaluation of visitor responses to recreation fee demonstration program.

Bureau for number: None.

Frequency of collection: On Occasion.

Description of the respondents: Individuals and Households.

Number of respondents: 2,400.

Estimated completion time: 10 minutes.

Burden estimate: 400 hours.

Dated: April 6, 1999.

Allyson Rowell,

Assistant Director for Refuges and Wildlife.

[FR Doc. 99–10804 Filed 4–29–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On December 28,1998, a notice was published in the **Federal Register**, Vol. 63, No. 248, Page 71497, that an application had been filed with the Fish and Wildlife Service by Dennis Leistico for a permit (PRT–006163) to import one polar bear (*Ursus maritimus*) trophy taken from the M'Clintock Channel population, Canada for personal use.

Notice is hereby given that on April 7, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19,1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Walter Prothero for a permit (PRT–004450) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 7, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Thomas LaBarge for a permit (PRT–003976) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 7, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Danny Sardella for a permit (PRT–004449) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 7, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Jerry Rubenstein for a permit (PRT–004001) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 7, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Leonard Guldman for a permit (PRT–007981) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 7, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Daniel Smith for a permit (PRT–004453) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 7, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 26, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 38, Page 9522, that an application had been filed with the Fish and Wildlife Service by Alberto De Jongh for a permit (PRT–008115) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 15, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On January 22, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 14, Page 3539, that an application had been filed with the Fish and Wildlife Service by Alaska Zoo for a permit (PRT–844696) to take one orphaned polar bear (*Ursus maritimus*) from Barrow, Alaska for the purpose of public display.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by James Doyle for a permit (PRT–002160) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 8, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Ken Trudell for a permit (PRT–004729) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 12, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Roger Ebnet for a permit (PRT–003974) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 12, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by John Walchli for a permit (PRT–004732) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 15, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Eugene Giscombe for a permit (PRT–843163) to import one polar bear (*Ursus maritimus*) trophy taken from the McClintock Channel population, Canada for personal use.

Notice is hereby given that on April 12, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Henry P. Anderson, III for a permit (PRT–004877) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 12, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Grant Medlin for a permit (PRT–840855) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 12, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Dean E. Wilkie for a permit (PRT–840282) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 12, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No.33, Page 8397, that an application had been filed with the Fish and Wildlife Service by William Joseph

Haley for a permit (PRT–004879) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 12, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by William G. Wilson for a permit (PRT–004767) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 12, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Lee E. Bernson for a permit (PRT–006591) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 12, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Dennis D. Brownley for a permit (PRT–003835) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 12, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by George R. Koebel for a permit (PRT–007081) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 12, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Lawrence T. Epping for a permit (PRT–004769) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 12, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Kenneth Barr for a permit (PRT–004730) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 6, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 26, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 38, Page 9522, that an application had been filed with the Fish and Wildlife Service by Jeff C. Neal for a permit (PRT–008116) to import one polar bear (*Ursus maritimus*) trophy taken from the Davis Strait population, Canada, prior to April 30, 1994, for personal use.

Notice is hereby given that on April 12, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On February 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 33, Page 8397, that an application had been filed with the Fish and Wildlife Service by Robert G. Gegenheimer for a permit (PRT–843446) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on April 19, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, rm 700, Arlington, Virginia 22203. Phone (703) 358–2104 or Fax (703) 358–2281.

Dated: April 26, 1999.

Mary Ellen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 99–10803 Filed 4–29–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–065–1220–00]

Upper Columbia-Salmon Clearwater Districts, Idaho; Notice of Closure and Restriction Order for BLM Lands in Short's Bar and Island Bar Areas, Order No. ID–060–15

SUMMARY: By order, the following closures and restrictions apply to the areas known as ''Short's Bar,'' described as all public land administered by the Bureau of Land Management in T.24N., R.1E., section 14, Idaho County, Idaho and ''Island Bar,'' described as all public land administered by the Bureau of Land Management in T.24N., R.2E., section 18.

(1) The possession or consumption of alcoholic beverages to a person under 21 years of age is prohibited.

(2) The sale or gift of an alcoholic beverage to a person under 21 years of age is prohibited.

The authority for establishing these closures and restrictions is 43 CFR 8364.1.

The closures and restrictions are in effect from April 30, 1999 through May 3, 1999.

The closures and restrictions are necessary to protect persons, property, public lands and resources. Persons abusing alcohol cause a public disturbance and create a risk to other persons on public lands.

Violation of this order is punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed one year.

FOR FURTHER INFORMATION CONTACT: Greg Yuncevich, Area Manager, Bureau of Land Management, Cottonwood Field Office, Route 3, Box 181, Cottonwood, ID 83522.

Dated: April 23, 1999.

Ted Graf,

Acting District Manager.

[FR Doc. 99–10813 Filed 4–29–99; 8:45 am]

BILLING CODE 4310–GG–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–030–1310–00]

Continental Divide/Wamsutter II Natural Gas Project

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of Draft Environmental Impact Statement.

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Continental Divide/Wamsutter II (CD/WII) Natural Gas Project Draft Environmental Impact Statement (DEIS) which analyzes the environmental consequences of the CD/WII proposed natural gas development and production operation. Expansion of natural gas exploration and development is proposed in and adjacent to other oil and gas developments including the Greater Wamsutter Area II, Creston/Blue Gap, Table Rock field, Hay Reservoir, Patrick Draw, and Mulligan Draw. The 1,061,200 acre CD/WII project area is located within the administrative jurisdictions of the BLM Rawlins and Rock Springs Field Offices, approximately 25 miles west of Rawlins and 40 miles east of Rock Springs along Interstate Highway 80 in Townships 15–23 North, Ranges 91–99 West, Sixth Principal Meridian, Sweetwater and Carbon Counties, Wyoming. Most of the 531,400 acres of Federal land in the project area lie within the ''checkerboard''—a land ownership pattern created when the United States conveyed alternate sections of land to the Union Pacific Railroad along their railroad right-of-way. Currently there are approximately 845 oil and gas wells drilled within the project area and up to 3,000 additional wells could be drilled over the next 20 years.

DATES: Written comments on the DEIS will be accepted for 60 days following the date that the Environmental Protection Agency (EPA) publishes their notice of availability of the DEIS in the **Federal Register**. The EPA notice is expected to be published April 30, 1999.

Two public meetings are scheduled to obtain public comments on the proposed project and the DEIS: May 24, 1999, 7 p.m., at the BLM Rock Springs Field Office conference room, 280 Highway 191 North, Rock Springs, Wyoming; and May 25, 1999, 7 p.m., at the BLM Rawlins Field Office conference room, 1300 North Third Street, Rawlins, Wyoming. Also, the above field offices will hold open houses on the respective public meeting dates from 1:30 p.m. to 4:00 p.m. to answer any questions interested parties may have regarding the proposed project.

ADDRESSES: Send written comments to: Clare Miller, Team Leader, Rawlins Field Office, Bureau of Land Management, 1300 N. Third Street, P.O. Box 2407, Rawlins, Wyoming 82301, or e-mail to Clare__Miller@blm.gov.

FOR FURTHER INFORMATION CONTACT: Clare Miller, phone 307–328–4245, or Teresa Deakins, phone 307–352–0211.

SUPPLEMENTARY INFORMATION: Amoco Production Company, Union Pacific Resources, Snyder Oil Corporation, Yates Petroleum Corporation, and other companies (Operators) propose to drill up to 3,000 wells over the next 20 years exploring and developing their existing leases within the CD/WII project area. Well density would range from one well per 640 acres to eight wells per 640 acres.

The CD/WII DEIS analyzes the impacts of the Proposed Action—full field development of 3,000 wells, along with access roads, pipelines, and other ancillary facilities (gas processing plant, compressor stations, water disposal sites, etc.). Alternative A is similar to the Proposed Action, but would limit disturbance on Federal lands in Sensitive Resource Areas (SRA)—areas containing high value resources—to no more than 14 acres of additional disturbance per section. Alternative B also is similar to the Proposed Action, but would limit disturbance to no more than 30 acres of additional disturbance per section on Federal lands within SRAs. The No Action Alternative analyzes the current, ongoing level of development (845 wells) in the CD/WII area and continuation of that activity into the future. The Proposed Action would be denied under the No Action Alternative.

Based upon issues and concerns identified during the scoping process, this DEIS focuses on the impacts to air quality, biological and physical resources, transportation, socio-economics, and cumulative effects. The DEIS, in compliance with Section 7(c) of the Endangered Species Act, as amended, includes the Biological Assessment for the purpose of identifying endangered or threatened species which may be affected by the proposed action.

Comments, including the names and street addresses of respondents, will be available for public review at the BLM offices listed above during regular business hours (7:45 a.m. to 4:30 p.m.), Monday through Friday, except for Federal holidays. Your comments may be published as part of the EIS process. Individual respondents may request confidentiality. If you wish to withhold your name and/or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspections in their entirety.

Dated: April 26, 1999.

Alan R. Pierson,

State Director.

[FR Doc. 99–10822 Filed 4–29–99; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–070–99–5101–00; J–608; UTU–77149, UTU–77164]

San Juan County, NM; La Plata, Montezuma, Dolores, and San Miguel Counties, CO; and San Juan, Grand, Emery, Carbon, Sanpete, Utah, and Salt Lake Counties, UT; EIS for Pipeline Transportation of Refined Petroleum Products and Natural Gas

AGENCY: Bureau of Land Management, Utah.

ACTION: Notice of intent to prepare an environmental impact statement (EIS) and notice of EIS scoping meetings for construction of pipeline facilities and transportation of refined petroleum products via underground pipeline in San Juan County, New Mexico; La Plata, Montezuma, Dolores, and San Miguel Counties, Colorado; and San Juan, Grand, Emery, Carbon, Sanpete, Utah, and Salt Lake Counties, Utah; and the construction of pipeline facilities and transportation of natural gas via

underground pipeline in Carbon, Sanpete and Utah Counties, Utah.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, the Bureau of Land Management (BLM), Price Field Office, will be directing the preparation of an EIS on the impacts of proposed transportation of *refined petroleum products* through a pipeline located on public, National Forest System, and private lands in northwest New Mexico, southwest Colorado, and southeast to north-central Utah. In addition, the EIS will analyze the impacts of proposed transportation of *natural gas* through a pipeline located on public and private lands in southeast to north-central Utah. The Federal Energy Regulatory Commission (FERC) and U.S. Forest Service, Manti-LaSal and Uinta Forests, will be participating in the EIS preparation as cooperating agencies in accordance with 40, CFR 1501.6. Because these separate proposed actions would share approximately 102 miles of utility corridor, the BLM and cooperating agencies will analyze the impacts in a single EIS process. The EIS may also address the impacts of other potential utility projects proposed for portions of the corridor in Utah.

SUPPLEMENTARY INFORMATION: Williams Pipe Line Company has proposed to transport *refined petroleum products* to the Wasatch Front area of Utah using a combination of existing pipelines in New Mexico and Colorado, and a new segment of pipeline in Utah from near Thompson Springs to a terminal on the Wasatch Front. The *refined petroleum products* would include diesel fuel, fuel oil, jet fuel, and gasoline. Questar Pipeline Company has proposed to increase its transportation of *natural gas* from the Price area by installing a parallel pipeline along its existing Main Line (ML) 40/41 Pipeline from Price to Payson, Utah, and then west to a new interconnect point with Kern River Pipeline in the vicinity of Elberta, Utah, and north to a terminus near Lehi, Utah. The BLM is preparing an EIS to analyze the effects of the proposed pipelines and appurtenant facilities.

Summary Description of Williams Pipe Line Company's Proposed Action

Transportation of *refined petroleum products* through underground pipeline from west Texas to a terminal site along the Wasatch Front of Utah is proposed. Williams Pipe Line Company would use the pipeline network to distribute products to distinct markets in New Mexico, western Colorado, and the growing Wasatch Front area of Utah. The northern portion of the project serving markets in northwestern New Mexico, western Colorado and southeast Utah would involve re-engineering of existing natural gas pipeline. A new 237-mile pipeline would be constructed to connect the re-engineered, existing pipeline network from near Thompson Springs, Utah to the Wasatch Front. Terminals would be constructed adjacent to I–70 near Green River, Utah and near Salt Lake City along the Wasatch Front. Other appurtenant pipeline facilities may include check valves approximately every 10 to 15 miles, a cathodic protection system, aerial markers, and scraper launchers and traps. Existing pump stations near Ignacio, Dolores and Dove Creek, Colorado, and Lisbon and Moab Utah, would have pumping units added for the project. New pump stations would be constructed at one location in northwest New Mexico, one location in southwest Colorado, and two locations in Utah.

The southern segment of the project extending from west Texas to northwest New Mexico would include the use of existing or new terminals in Albuquerque and Bloomfield, New Mexico and other facilities. However, because the northern and southern segments of the pipeline project would serve separate and distinct markets and have substantial independent utility, the BLM will undertake separate NEPA analyses for the segments. The Price Field Office of BLM will be the lead office to assess effects of the proposed pipeline and appurtenant facilities within Utah, existing pipeline re-engineering and appurtenant facilities in Colorado, and the existing pipeline re-engineering north of Bloomfield, New Mexico. BLM staff in New Mexico will assess effects of the portions of the project serving markets in Texas and most of New Mexico.

Summary Description of Questar Pipeline Company's Proposed Action

In order to service the current and future transportation needs of natural gas development in central Utah south of Price to markets along the Wasatch Front and existing Kern River Pipeline, Questar Pipeline Company proposes to increase its system capacity by installing a new 102-mile, 20-inch outside diameter natural gas pipeline loop from Price to Lehi, Utah. The ML 40/41 Loop would be installed parallel to Questar Pipeline Company's existing ML 40/41 Pipeline from Price to Payson. From the Payson Meter Station, the pipeline would continue due west approximately 18 miles through the Goshen Valley and tie into the Kern River Pipeline near Elberta, Utah. From the tie-in with Kern River, the pipeline would continue within the existing Kern River corridor approximately 30 miles north to a termination point due west of Lehi, Utah.

Preliminary Issues

Tentatively identified issues of concern may include: cultural resources, wildlife, water resources, land use, socioeconomics and visual resources.

Possible Alternatives

The EIS will analyze the Proposed Actions and No-Action Alternatives. Other alternatives may include different routes for portions of each pipeline, fewer but larger pipelines in the corridor, and optional sites for pipeline facilities, as well as mitigating measures to minimize impacts.

Decisions To Be Made

Separate Records of Decision would be issued for the Williams and Questar proposals. Questar Pipeline Company's proposed action is regulated by the FERC, and the FERC will review Questar Pipeline Company's Application for a Certificate of Public Convenience and Necessity under the Natural Gas Act.

Tentative Project Schedule

The tentative project schedule is as follows:

- Begin Public Comment Period—April 1999.
- Hold Scoping Meetings—May 1999.
- File Draft EIS—January 2000.
- File Final EIS—June 2000.
- Record of Decision—July 2000.

Public Scoping Meetings

Eight public scoping meetings will be held, each one beginning at 7:00 p.m. All locations except for Durango, Colorado, are in Utah. The meeting locations include:

- May 18 *Green River:* John Wesley Powell Hall of Fame Museum.
- May 19 *Moab:* Moab Civic Center Senior Citizens Center.
- May 20 *Price:* Holiday Inn.
- May 25 *Salt Lake City:* Wyndham Hotel.
- May 26 *Payson:* Payson City Hall Banquet Room.
- May 27 *Lehi:* Lehi High School.
- June 2 *Dolores:* Anasazi Heritage Center.
- June 3 *Durango:* Doubletree Hotel.

Public Input Requested

Comments concerning the Proposed Action and EIS should address issues to be considered, feasible alternatives to examine, possible mitigation, and

information relevant to or having bearing on the Proposed Action.

DATES: The comment period for scoping of the EIS will commence with publication of this notice. Written comments must be submitted on or before June 11, 1999. Eight public scoping meetings will be held to receive oral comment on May 18, 19, 20, 25, 26, and 27, and June 2 and 3, 1999, at the times and locations listed under **SUPPLEMENTARY INFORMATION.**

ADDRESSES: Comments should be sent to Mark Mackiewicz, Williams Aspen Pipeline EIS Team Leader, Bureau of Land Management, 125 South 600 West, Price, Utah 84501 or at e-mail: *mmackiew@ut.blm.gov*

FOR FURTHER INFORMATION CONTACT: Mark Mackiewicz, (435) 636–3616 or at e-mail: *mmackiew@ut.blm.gov*

Dated: April 22, 1999.

Linda S. Colville,

Acting State Director.

[FR Doc. 99–10821 Filed 4–29–99; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–960–99–1990–00]

Resource Advisory Council Meeting, Butte, MT

AGENCY: Butte Field Office, Bureau of Land Management, DOI.

ACTION: Notice of meeting.

SUMMARY: The Western Montana Resource Advisory Council will convene at 9 a.m., Monday, June 7, 1999, at the Butte Field Office, 106 North Parkmont, Butte, Montana. Issues to be discussed will include the Whitetail-Pipestone (TailPipe) Environmental Impact Statement review and an update on the progress of the new members' nominations.

On Sunday, June 6, a Field trip to the TailPipe area is planned. This trip is optional to members and will not be an officially sanctioned tour.

The meeting is open to the public and written comments may be given to the Council. Oral comments may be presented to the Council at 11 a.m. The time allotted for oral comment may be limited, depending on the number of persons wishing to be heard. Individuals who plan to attend and need further information about the meeting, or who need special assistance, such as sign language or other reasonable accommodations, should contact the Butte Field Office, 106 North Parkmont (P.O. Box 3388), Butte, Montana 59702–3388, telephone 406–494–5059.

FOR FURTHER INFORMATION CONTACT: BLM Butte Field Manager Merle Good at the above address or telephone number.

Dated: April 22, 1999.

Merle Good,

Butte Field Manager.

[FR Doc. 99–10868 Filed 4–29–99; 8:45 am]

BILLING CODE 4310–DN–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–070–99–1990–00; MTM–68606]

Amendment of Commercial Lease To Include Additional Public Lands for Expansion of a Ski Area in Lewis and Clark County, MT

AGENCY: Butte Field Office, Bureau of Land Management, DOI.

ACTION: Notice of realty action.

SUMMARY: Great Divide Ski Area, Inc., has requested use of the following described lands to accommodate expansion of the Great Divide Ski Area.

Principal Meridian, Montana

T. 12 N., R. 6 W.,
- Sec. 26: SW¼—Patent #34463
- Sec. 27: Lot 6 (remainder unlotted), Lot 7, Lot 8 (remainder unlotted), Lot 11, NE ¼ SW¼ (remainder unlotted), Unlotted parcel in SE¼SE¼, Mineral Survey 1782B
- Sec. 34: Lot 1 (remainder unlotted), Lot 2 (remainder unlotted), Lot 3, Lot 6, Lot 7 (remainder unlotted), Lot 8 (remainder unlotted), Lot 9 (two small unlotted parcels), Lot 14 (remainder of unlotted area)

These lands are comprised of about 396.71 acres.

The lands are located on Mt. Belmont, approximately 15 air miles northwest of Helena. The amendment would be issued under section 302 of the Federal Land Policy and Management Act (FLPMA) of 1976, 43 U.S.C. 1732, and would be issued noncompetitively to the above lessee. The term of this lease is through September 30, 2016. Fair market rental will be collected for these additional lands, as well as reasonable administrative and monitoring costs for processing the amendment. The amendment will be subject to the terms and conditions of the existing lease. Final determination on the lease of these additional lands will be made upon completion of an environmental assessment.

DATES: On or before June 14, 1999, interested parties may submit comments to the Field Manager, Butte Field Office, P.O. Box 3388, Butte, Montana 59702–3388.

FOR FURTHER INFORMATION CONTACT: Bob Rodman at 406–494–5059 or at the above address.

Dated: April 22, 1999.

Merle Good,

Butte Field Manager.

[FR Doc. 99–10865 Filed 4–29–99; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–01; N–62813]

Notice of Realty Action; Nevada

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice.

SUMMARY: The following described land in Elko County, Nevada has been examined and found suitable for classification for purchase under the Recreation and Public Purposes Act (R&PP) of June 14, 1926, as amended (43 U.S.C. 869 et. seq.). The lands will not be offered for purchase until at least 60 days after the date of publication of this Notice in the **Federal Register**.

Mount Diablo Meridian, Nevada

T. 33 N., R. 69 E.,
- Sec 26, S½N½NE¼¼SE¼, S½NE¼SE¼, SE¼NE¼NW¼SE¼, E½SE¼NW¼SE¼, E½E½SW¼SE¼, SE¼SE¼.

Containing 87.5 acres, more or less.

DATES: The land will become segregated on April 30, 1999. Comments are due in this office by June 14, 1999.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this action is available for review at the Bureau of Land Management, Elko Field Office, 3900 Idaho Street, Elko, Nevada.

SUPPLEMENTARY INFORMATION: The City of West Wendover intends to use the land for a Class 1 landfill. The patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act, applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereof for ditches and canals constructed by the authority of the United States; Act of August 30, 1890 (43 U.S.C. 945).

2. All mineral deposits in the lands so patented, and to it, or persons authorized by it, the right to prospect for, mine and remove such deposits from the same under applicable laws and regulations to be established by the

Secretary of Interior. The grant of the herein described lands is subject to any other reservations, provisions or covenants provided by the Recreation and Public Purposes Act that the authorized officer deems appropriate, including the following provision: A statement from the City of West Wendover indemnifying the United States harmless against any legal liability or future costs directly or indirectly attributable to the disposal of solid waste or release of hazardous substances on the subject land. Upon publication of this Notice of Realty Action in the **Federal Register**, the subject lands will be segregated from all forms of appropriation under the public land laws, including locations under the mining laws, except for recreation and public purposes. The segregative effect shall terminate upon issuance of a patent or as specified in an opening order to be published in the **Federal Register**, whichever occurs first. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Field Manager, Elko Field Office, 3900 Idaho Street, Elko, NV 89801. Any objections will be evaluated by the State Director, who may sustain, vacate or modify this realty action. In the absence of timely filed objections, the classification of the lands described in this Notice will become effective 60 days from the date of publication in the **Federal Register**.

Classification Comments

Interested parties may submit comments involving the suitability of the land for conveyance under the Recreation and Public Purposes Act. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a Class 1 landfill.

Dated: April 20, 1999.

David L. Stout,

Acting Field Manager.

[FR Doc. 99–10809 Filed 4–29–99; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–957–1430–00]

Idaho: Filing of Plats of Survey; Idaho

The plats of the following described land were officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m., on the date the plat was accepted.

The plat representing the dependent resurvey of portions of the south and west boundaries, the subdivisional lines, and the original 1891 meanders of the Salmon River in section 30, and the subdivision of sections 29, 30, and 33, and the survey of lots 2 and 5 in section 33, the 1994–1997 meanders of the Salmon River in section 30, and an island in the Salmon River, designated as lots 16 and 17 in section 30, T. 23 N., R. 22 E., Boise Meridian, Idaho, Group 909, was accepted March 17, 1999.

The plat representing the dependent resurvey of portions of the west boundary, subdivisional lines, and the original 1897 meanders of the Snake River, and the subdivision of section 30, T. 10 S., R. 21 E., Boise Meridian, Idaho, Group 1029, was accepted March 17, 1999.

The supplemental plat prepared to amend lottings created by the cancellation of Mineral Survey No. 2443, T. 10 S., R. 21 E., Boise Meridian, Idaho, was accepted March 18, 1999.

These surveys were executed to meet certain administrative needs of the Bureau of Land Management. All inquiries concerning the survey of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 1387 S. Vinnell Way, Boise, Idaho, 83709–1657.

Dated: March 18, 1999.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 99–10867 Filed 4–29–99; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Preparation of an Environmental Assessment for Proposed Lease Sale 175 in the Central Gulf of Mexico (2000)

AGENCY: Minerals Management Service.

ACTION: Preparation of an Environmental Assessment.

SUMMARY: The Minerals Management Service (MMS) is beginning preparation of an environmental assessment (EA) for proposed lease Sale 175 (scheduled for March 2000) in the Central Gulf of Mexico Planning Area. In August 1996, MMS issued a Call for Information and Nominations/Notice of Intent to Prepare an EIS (Call/NOI) for the five proposed Central Gulf of Mexico sales in the current 5-year leasing program. In 1997, MMS prepared a single environmental impact statement (EIS) for all five sales. The multisale Final EIS, filed in November 1997, included an analysis of a single, ''typical'' sale, and a cumulative analysis that included the effects of holding all five sales, as well as the cumulative effects of the long-term development of the planning area. The MMS stated in the EIS that an EA would be prepared for each lease sale after the first sale covered in the EIS (Sale 169).

The preparation of this EA is the first step in the prelease decision process for Sale 175. The proposal and alternatives for Sale 175 were identified by the Director of MMS in November 1996 following the Call/NOI and were analyzed in the Central Gulf multisale EIS, which is available from the Gulf of Mexico OCS Region's Public Information Office at 1–800–200–GULF. The proposed action analyzed in the multisale EIS was the offering of all available unleased acreage in the Central Gulf of Mexico Planning Area. The EA will also analyze alternatives to defer blocks south and within 15 miles of Baldwin County, Alabama, and to defer blocks containing topographic features with sensitive biological resources, as well as the no action alternative. The analysis in the EA will reexamine the potential environmental effects of the proposal and alternatives based on any new information regarding potential impacts and issues that was not available at the time the Final EIS was prepared.

The MMS requests interested parties to submit comments regarding any such new information or issues that should be addressed in the EA to Minerals Management Service, Gulf of Mexico OCS Region, Office of Leasing and Environment, Attention: Regional Supervisor (MS 5410), 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394 by May 31, 1999. After completion of the EA, MMS will determine whether to prepare a Finding of No New Significant Impact (FONNSI) or a supplemental EIS. The MMS will then prepare and send consistency determinations to the affected States to determine whether the proposed sale is consistent with federally-approved State coastal zone management programs, and will send a proposed Notice of Sale to

the Governors for their comments on the size, timing, and location of the proposed sale. The tentative schedule for the steps in the prelease decision process for Sale 175 is listed below:

Comments due to MMS, May 31, 1999;
EA/FONNSI or Supplemental EIS, October 1999;
Proposed Notice of Sale sent to Governors, October 1999;
Consistency Determinations sent to States, October 1999;
Final Notice of Sale in **Federal Register**, February 2000;
Sale, March 2000.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Mr. George Hampton, telephone (504) 736–2465).

Dated: April 26, 1999.

Chris C. Oynes,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 99–10823 Filed 4–29–99; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the availability of environmental documents prepared for OCS Mineral Proposals on the Gulf of Mexico OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal Regulations (40 CFR Section 1501.4 and Section 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related Site-Specific Environmental Assessments (SEA's) and Findings of No Significant Impact (FONSI's), prepared by the MMS for the following oil and gas activities proposed on the Gulf of Mexico OCS. This listing includes all proposals for which the FONSI's were prepared by the Gulf of Mexico OCS Region in the period subsequent to publication of the preceding notice.

Activity/operator	Location	Date
William's Gas Pipeline—Transco, G&G Activity, SEA No. M99–3	Pensacola Area, offshore the Florida coast	03/23/99
Fugro Geoservices, Inc., Remote Sensing Activity, SEA No. M99–2.	Mobile Bay Area, and from Alabama to Tampa, Florida, offshore the Alabama and Florida coast.	03/19/99
Exxon Pipeline Company, Pipeline Activity, SEA No. G–20551 ..	Alaminos Canyon Area, Block 25, to Brazos Area, Block 341, Lease OCS–G 20551, 137 miles southeast of Matagorda County, Texas.	02/08/99
Murphy Exploration & Production Company, Exploration Activity, SEA Nos. N–6081 and S–4938.	High Island Area, East Addition, South Extension, Block A–383, Lease OCS–G 17220, 110 miles south of the Texas coast.	04/02/99
British-Borneo Exploration, Inc., Development Activity, SEA No. N–6222UA.	Green Canyon Area, Blocks 254 and 298, Leases OCS–G 7049 and 8010, 90 miles south of Lafourche Parish, Louisiana.	02/03/99
Shell Deepwater Development, Inc., Development Activity, SEA No. N–6230UA.	Mississippi Canyon Area, Blocks 809, 853, 810, and 854; Leases OCS–G 5868, 5871, 9873, and 9883; 56 miles south of Plaquemines Parish, Louisiana.	12/16/98
Conoco, Inc., Exploration Activity, SEA No. N–6277	Green Canyon Area Block 819, Lease OCS–G 16804, 133 miles south of the shoreline of Terrebonne Parish, Louisiana.	11/19/98
Union Oil Company of California, Exploration Activity, SEA No. N–6297.	Mobile Area, Block 826, Lease OCS–G 19800, 4 miles south of Baldwin County, Alabama.	03/12/99
Tri-Union Development Corporation, Development Activity, SEA No. N–6325.	High Island Area, East Addition, Block A–253, Lease OCS–G 14186, 70 miles south of the Texas coast.	01/06/99
Oryx Energy Company, Development Activity, SEA No. S–4589U.	Viosca Knoll Area, Block 825, Lease OCS–G 5778, 58 miles south of the Mississippi coast.	07/22/98
Oryx Energy Company, Development Activity and Pipeline Activity, SEA Nos. S–4749UA and P–12098.	High Island Area, East Addition, South Extension, Blocks A–378 and A–379, Leases OCS–G 13807 and 13808, 110 miles south of the Texas coast.	02/03/99
Chevron U.S.A., Structure Removal Operations, SEA No. ES/SR 99–01S.	South Timbalier Area, Block 135, Lease OCS 0472, 30 miles south of Lafourche Parish, Louisiana.	02/26/99
Ocean Energy, Inc., Structure Removal Operations, SEA No. ES/SR 99–005.	Eugene Island Area, Block 243, Lease OCS–G 2899, 36 miles south of Vermilion Parish, Louisiana.	01/29/99
Ocean Energy Company, Structure Removal Operations, SEA No. ES/SR 99–006.	Eugene Island Area, Block 245, Lease OCS–G 12922, 36 miles south of Vermilion Parish, Louisiana.	01/29/99
Energy Resource Technology, Inc., Structure Removal Operations, SEA No. ES/SR 99–007.	High Island Area, Block 199, Lease OCS–G 3747, 31 miles southeast of Galveston County, Texas.	03/03/99
Taylor Energy Company, Structure Removal Operations, SEA No. ES/SR 99–008.	South Marsh Island Area, Block 51, Lease OCS 0789, 51 miles southwest of Terrebonne, Louisiana.	01/29/99
Forest Oil Corporation, Structure Removal Operations, SEA No. ES/SR 99–009.	High Island Area, Block 115, Lease OCS–G 6155, 25 miles south of Jefferson County, Texas.	01/15/99
Sonat Exploration Company, Structure Removal Operations, SEA Nos. ES/SR 99–012 thorugh 99–014.	Sabine Pass Area, Block 9, Lease OCS–G 4146, 9 miles south of Cameron Parish, Louisiana.	02/18/99
W&T Offshore, Inc., Structure Removal Operations, SEA No. ES/SR 99–015.	Main Pass Area, Block 234, Lease OCS–G 12100, 33 miles east of Venice, Louisiana.	02/24/99
Samedan Oil Corporation, Structure Removal Operations, SEA No. ES/SR 99–016.	High Island Area, Block A–417, Lease OCS–G 9114, 79 miles south of Galveston County, Texas.	03/04/99
Samedan Oil Corporation, Structure Removal Operations, SEA Nos. ES/SR 99–017 through 99–020.	High Island Area, Block 105, Lease OCS–G 4076, 12 miles southeast of Galveston County, Texas.	03/04/99
Samedan Oil Corporation, Structure Removal Operations, SEA Nos. ES/SR 99–021 and 99–022.	West Delta Area, Blocks 18 and 20, Leases OCS–G 5669 and 7789, 10 miles south of Plaquemines Parish, Louisiana.	03/10/99
Newfield Exploration Company, Structure Removal Operations, SEA No. ES/SR 99–023.	West Cameron Area, Block 609, Lease OCS–G 2850, 93 miles south of Cameron Parish, Louisiana.	03/11/99

Activity/operator	Location	Date
Texaco Exploration & Production Inc., Structure Removal Operations, SEA Nos. ES/SR 99–024 and 99–025.	Eugene Island Area, Block 315, Lease OCS–G 2608, 74 miles south of St. Mary Parish, Louisiana.	03/12/99
Coastal Oil and Gas Corporations, Structure Removal Operations, SEA Nos. ES/SR 99–026 and 99–027.	High Island Area, Blocks A–245 and A–518, Leases OCS–G 13334 and 11389, 79 miles south of Cameron Parish, Louisiana.	03/12/99
Seneca Resources Corporation, Structure Removal Operations, SEA No. ES/SR 99–028.	West Cameron Area, Block 293, Lease OCS–G 4398, 29 miles south of Cameron Parish, Louisiana.	03/24/99
PennzEnergy Exploration and Production Company, L.L.C., Structure Removal Operations, SEA No. ES/SR 99–030.	South Marsh Island Area, Block 23, Lease OCS–G 0778, 38 miles southwest of Terrebonne Parish Louisiana.	04/01/99
Seneca Resources Corporation, Structure Removal Operations, SEA No. ES/SR 99–031.	Brazos Area, Block 375, Lease OCS–G 9010, 10 miles southeast of Matagorda County, Texas.	04/08/99
Chevron U.S.A., Structure Removal Operations, SEA No. ES/SR 99–032.	Bay Marchand Area, Block 3, Lease OCS–G 0370, 8 miles south of Lafourche Parish, Louisiana.	04/09/99
BP Amoco, Structure Removal Operations, SEA No. ES/SR 99–033.	Vermilion Area, Block 359, Lease OCS–G 5446, 92 miles south of Vermilion Parish, Louisiana.	04/13/99
Forcenergy Inc., Structure Removal Operations, SEA No. ES/SR 99–034.	Main Pass Area, Block 98, Lease OCS–G 5694, 19 miles east of Plaquemines Parish, Louisiana.	04/14/99
IP Petroleum Company, Inc., Structure Removal Operations, SEA No. ES/SR 99–035.	High Island Area, Block 37, Lease OCS–G 15769, 12 miles south of Jefferson County, Texas.	04/08/99

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EA's and FONSI's prepared for activities on the Gulf of Mexico OCS are encouraged to contact the MMS office in the Gulf of Mexico OCS Region.

FOR FURTHER INFORMATION CONTACT: Public Information Unit, Information Services Section, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Telephone (504) 736–2519.

SUPPLEMENTARY INFORMATION: The MMS prepares EA's and FONSI's for proposals which relate to exploration for and the development/production of oil and gas resources on the Gulf of Mexico OCS. The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. Environmental Assessments are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA Section 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

Dated: April 23, 1999.

Chris C. Oynes,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 99–10814 Filed 4–29–99; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of an Environmental Assessment Pertaining to a Request by the City of New Orleans to the Secretary of the Interior for Approval To Relocate the Place de France, the Jeanne d'Arc Statue and Two Bronze Cannons Within the City of New Orleans

SUMMARY: Due to the construction adjacent to the Place de France, the City, Mayor Marc H. Morial, has requested the Secretary of the Interior to approve relocation of the Place de France (also known as the Joan of Arc Plaza), a statue of Jeanne d'Arc and two bronze cannons from the current location in the median between the International Trade Mart buildings and the former Rivergate to the Decatur/North Peters Street Triangle in the Vieux Carre (the French Quarter), a National Historic Landmark District. Using a grant received under the Housing and Urban Development Act of 1970, Pub. L. 91–609, the City developed the Place de France as a park for the statue and two bronze cannons donated to the City by the French Government. This law provides that ''no open-space land involving historic or architectural purposes for which assistance has been granted under this title shall be converted to use for any other purposes without the prior approval of the Secretary of the Interior.'' In *Louisiana Landmarks Society, Inc.* v. *City of New Orleans*, No. 94–3880 (E.D. La. 1995) the court reiterated the necessity for prior approval of the Secretary, but provided no standard by which to evaluate the historic purposes of the Place de France. The court, however, found that the term ''historic'' is not limited to property listed on, or eligible for listing on, the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966.

DATES: Comments on this Environmental Assessment will be received on or before June 1, 1999.

ADDRESSES: Comments should be mailed to: Regional Director, Southeast Region, National Park Service, Atlanta Federal Center, 1924 Building, 100 Alabama Street, SW, Atlanta, Georgia 30303.

SUPPLEMENTARY INFORMATION: Pursuant to the National Environmental Policy Act, this Environmental Assessment is intended to identify and analyze the potential environmental effects of the proposed action, which is the approval by the Secretary of the proposed conversion and relocation of the Place de France, together with statue and cannons as proposed by the City of New Orleans. Concurrent with this NEPA process, the Department of the Interior has also initiated the Section 106 compliance process of the National Historic Preservation Act of 1966 and 36 CFR 800, Protection of Historic Properties.

Dated: April 22, 1999.

Charlie Powell,

Acting Regional Director, Southeast Region.

[FR Doc 99–10801 Filed 4–29–99; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

Summary of Commission Practice Relating to Administrative Protective Orders

AGENCY: U.S. International Trade Commission

ACTION: Summary of Commission practice relating to administrative protective orders.

SUMMARY: Since February 1991, the U.S. International Trade Commission (''Commission'') has issued an annual report on the status of its practice with respect to violations of its administrative protective orders (''APOs'') in investigations under Title VII of the Tariff Act of 1930 in response to a direction contained in the Conference Report to the Customs and Trade Act of 1990. Over time, the Commission has added to its report discussions of APO breaches in Commission proceedings other than Title VII and violations of the Commission's rule on bracketing business proprietary information (''BPI'')(the ''24-hour rule''), 19 CFR 207.3(c). This notice provides a summary of investigations of breaches in Title VII investigations for the period ending December 31, 1998. There were no investigations of breaches for other Commission proceedings or for 24-hour rule violations during that period. The Commission intends that this report educate representatives of parties to Commission proceedings as to some specific types of APO breaches encountered by the Commission and the corresponding types of actions the Commission has taken.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 205–3088. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202) 205–1810. General information concerning the Commission can also be obtained by accessing its Internet server (*http://www.usitc.gov*).

SUPPLEMENTARY INFORMATION: Representatives of parties to investigations conducted under Title VII of the Tariff Act of 1930 may enter into APOs that permit them, under strict conditions, to obtain access to BPI of other parties. See 19 U.S.C. 1677f; 19 CFR 207.7. The discussion below describes APO breach investigations that the Commission has completed including a description of actions taken in response to breaches. The discussion covers breach investigations completed during calendar year 1998.

Since 1991, the Commission has published annually a summary of its actions in response to violations of Commission APOs and the 24-hour rule. See 56 *FR* 4846 (Feb. 6, 1991); 57 *FR* 12335 (Apr. 9, 1992); 58 *FR* 21991 (Apr. 26, 1993); 59 *FR* 16834 (Apr. 8, 1994); 60 *FR* 24880 (May 10, 1995); 61 *FR* 21203 (May 9, 1996); 62 *FR* 13164 (March 19, 1997); 63 *FR* 25064 (May 6, 1998). This report does not provide an exclusive list of conduct that will be deemed to be a breach of the Commission's APOs. APO breach inquiries are considered on a case-by-case basis.

As part of the effort to educate practitioners about the Commission's current APO practice, the Commission Secretary issued in April 1996 a revised edition of *An Introduction to Administrative Protective Order Practice in Antidumping and Countervailing Duty Investigations* (Pub. No. 2961). This document is available upon request from the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, tel. (202) 205–2000.

I. In General

The current APO form for antidumping and countervailing duty investigations, which the Commission has used since March 1995, requires the applicant to swear that he or she will:

(1) Not divulge any of the BPI obtained under the APO and not otherwise available to him, to any person other than—

(i) Personnel of the Commission concerned with the investigation,

(ii) The person or agency from whom the BPI was obtained,

(iii) A person whose application for disclosure of BPI under this APO has been granted by the Secretary, and

(iv) Other persons, such as paralegals and clerical staff, who (a) are employed or supervised by and under the direction and control of the authorized applicant or another authorized applicant in the same firm whose application has been granted; (b) have a need thereof in connection with the investigation; (c) are not involved in competitive decisionmaking for the interested party which is a party to the investigation; and (d) have submitted to the Secretary a signed Acknowledgment for Clerical Personnel in the form attached hereto (the authorized applicant shall sign such acknowledgment and will be deemed responsible for such persons' compliance with the APO);

(2) Use such BPI solely for the purposes of the Commission investigation [or for binational panel review of such Commission investigation or until superceded by a judicial protective order in a judicial review of the proceeding];

(3) Not consult with any person not described in paragraph (1) concerning BPI disclosed under this APO without first having received the written consent of the Secretary and the party or the representative of the party from whom such BPI was obtained;

(4) Whenever materials (*e.g.*, documents, computer disks, etc.) containing such BPI are not being used, store such material in a locked file cabinet, vault, safe, or other suitable container (N.B.: storage of BPI on so-called hard disk computer media is to be avoided, because mere erasure of data from such media may not irrecoverably destroy the BPI and may result in violation of paragraph C of the APO);

(5) Serve all materials containing BPI disclosed under this APO as directed by the Secretary and pursuant to section 207.7(f) of the Commission's rules;

(6) Transmit such document containing BPI disclosed under this APO:

(i) With a cover sheet identifying the document as containing BPI,

(ii) With all BPI enclosed in brackets and each page warning that the document contains BPI,

(iii) If the document is to be filed by a deadline, with each page marked ''Bracketing of BPI not final for one business day after date of filing,'' and

(iv) If by mail, within two envelopes, the inner one sealed and marked ''Business Proprietary Information—To be opened only by [name of recipient]'', and the outer one sealed and not marked as containing BPI;

(7) Comply with the provision of this APO and section 207.7 of the Commission's rules;

(8) Make true and accurate representations in the authorized applicant's application and promptly notify the Secretary of any changes that occur after the submission of the application and that affect the representations made in the application (*e.g.*, change in personnel assigned to the investigation);

(9) Report promptly and confirm in writing to the Secretary any possible breach of the APO; and

(10) Acknowledge that breach of the APO may subject the authorized applicant and other persons to such sanctions or other actions as the Commission deems appropriate

including the administrative sanctions and actions set out in this APO.

The APO further provides that breach of protective order may subject an applicant to:

(1) Disbarment from practice in any capacity before the Commission along with such person's partners, associates, employer, and employees, for up to seven years following publication of a determination that the order has been breached;

(2) Referral to the United States Attorney;

(3) In the case of an attorney, accountant, or other professional, referral to the ethics panel of the appropriate professional association;

(4) Such other administrative sanctions as the Commission determines to be appropriate, including public release of or striking from the record any information or briefs submitted by, or on behalf of, such person or the party he represents; denial of further access to business proprietary information in the current or any future investigations before the Commission; and issuance of a public or private letter of reprimand; and

(5) Such other actions, including but not limited to, a warning letter, as the Commission determines to be appropriate.

Commission employees are not signatories to the Commission's APOs and do not obtain access to BPI through APO procedure. Consequently, they are not subject to the requirements of the APO with respect to the handling of BPI. However, Commission employees are subject to strict statutory and regulatory constraints concerning BPI, and face potentially severe penalties for noncompliance. *See* 18 U.S.C. 1905; Title 5, U.S. Code; and Commission personnel policies implementing the statutes. Although the Privacy Act (5 U.S.C. 552a) limits the Commission's authority to disclose any personnel action against agency employees, this should not lead the public to conclude that no such actions have been taken.

An important provision of the Commission's rules relating to BPI is the ''24-hour'' rule. This rule provides that parties have one business day after the deadline for filing documents containing BPI to file a public version of the document. The rule also permits changes to the bracketing of information in the proprietary version within this one-day period. No changes—other than changes in bracketing—may be made to the proprietary version. The rule was intended to reduce the incidence of APO breaches caused by inadequate bracketing and improper placement of BPI. The Commission urges parties to make use of the rule. If a party wishes to make changes to a document other than bracketing, such as typographical changes or other corrections, the party must ask for an extension of time to file an amendment document pursuant to section 201.14(b)(2) of the Commission's rules.

II. Investigations of Alleged APO Breaches

Upon finding evidence of a breach or receiving information that there is a reason to believe one has occurred, the Commission Secretary notifies relevant offices in the agency that an APO breach investigation file has been opened. Upon receiving notification from the Secretary, the Office of General Counsel (OGC) begins to investigate the matter. The OGC prepares a letter of inquiry to be sent to the alleged breacher over the Secretary's signature to ascertain the alleged breacher's views on whether a breach has occurred. If, after reviewing the response and other relevant information, the Commission determines that a breach has occurred, the Commission often issues a second letter asking the breacher to address the questions of mitigating or aggravating circumstances and possible sanctions or other actions. The Commission then determines what action to take in response to the breach. In some cases, the Commission has determined that although a breach has occurred, sanctions are not warranted, and therefore has found it unnecessary to issue a second letter concerning what sanctions might be appropriate. Instead, it issues a warning letter to the individual. The Commission retains sole authority to determine whether a breach has occurred and, if so, the appropriate action to be taken.

The records of Commission investigations of alleged APO breaches in antidumping and countervailing duty cases are not publicly available and are exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552, section 135(b) of the Customs and Trade Act of 1990, and 19 U.S.C. 1677f(g).

The breach most frequently investigated by the Commission involves the APO's prohibition on the dissemination of BPI to unauthorized persons. Such dissemination usually occurs as the result of failure to delete BPI from public versions of documents filed with the Commission or transmission of proprietary versions of documents to unauthorized recipients. Other breaches have included: the failure to properly bracket BPI in proprietary documents filed with the Commission; the failure to immediately report known violations of an APO; and the failure to adequately supervise non-legal personnel in the handling of BPI.

Sanctions for APO violations serve two basic interests: (a) Preserving the confidence of submitters of BPI in the Commission as a reliable protector of BPI; and (b) disciplining breachers and deterring future violations. As the Conference Report to the Omnibus Trade and Competitiveness Act of 1988 observed, ''the effective enforcement of limited disclosure under administrative protective order depends in part on the extent to which private parties have confidence that there are effective sanctions against violation.'' H.R. Conf. Rep. No. 576, 100th Cong., 1st Sess. 623 (1988).

The Commission has worked to develop consistent jurisprudence, not only in determining whether a breach has occurred, but also in selecting an appropriate response. In determining the appropriate response, the Commission generally considers mitigating factors such as the unintentional nature of the breach, the lack of prior breaches committed by the breaching party, the corrective measures taken by the breaching party, and the promptness with which the breaching party reported the violation to the Commission. The Commission also considers aggravating circumstances, especially whether persons not under the APO actually read the BPI. The Commission considers whether there are prior breaches within the previous two-year period and multiple breaches by the same person or persons in the same investigation.

The Commission's rules permit economists or consultants to obtain access to BPI under the APO if the economist or consultant is under the direction and control of an attorney under the APO, or if the economist or consultant appears regularly before the Commission and represents an interested party who is a party to the investigation. 19 CFR 207.7(a)(3)(B) and (C). Economists and consultants who obtain access to BPI under the APO under the direction and control of an attorney nonetheless remain individually responsible for complying with the APO. In appropriate circumstances, for example, an economist under the direction and control of an attorney may be held responsible for a breach of the APO by failing to redact APO information from a document that is subsequently filed with the Commission and served as a public document. This is so even though the attorney exercising direction or control over the economist or

consultant may also be held responsible for the breach of the APO.

III. Specific Investigations in Which Breaches Were Found

The Commission presents the following case studies to educate users about the types of APO breaches found by the Commission. The case studies provide the factual background, the actions taken by the Commission, and the factors considered by the Commission in determining the appropriate actions. The Commission has not included some of the specific facts in the descriptions of investigations where disclosure of such facts could reveal the identity of a particular breacher. Thus, in some cases, apparent inconsistencies in the facts set forth in this notice result from the Commission's inability to disclose particular facts more fully.

Case 1—Counsel in an investigation notified the Commission that they were unable to locate certain documents containing BPI which were obtained under the Commission's APO. Counsel presumed that the documents had been intentionally discarded by a discharged clerical employee. Counsel instructed an office manager who was not subject to the APO to review certain APO documents in the possession of an attorney covered by the APO to identify the missing documents. The Commission determined that three attorneys breached the APO by failing to properly safeguard materials under the APO and to prevent the disclosure of BPI to unauthorized persons. The attorney who had signed the acknowledgments for clerical personnel breached the APO because, as the person responsible for ensuring that the fired employee complied with the APO, he failed to safeguard the documents. In addition, he and a second attorney breached the APO when they instructed an employee not covered by the APO to review copies of APO documents of a third attorney to determine which documents were missing. The third attorney was found to breach the APO by permitting the employee not covered by the APO to review the documents in his possession. The Commission issued private letters of reprimand to all three attorneys. Certain aggravating factors existed with regard to the breach involving the disposal of the documents. The clerical employee apparently committed an intentional breach of the APO; efforts to identify and recover the documents were not effective; a large volume of the APO information was involved; and since the fate of the materials will likely never be known, it is impossible to determine whether they have been reviewed by any person not subject to the APO. There were also mitigating factors in that the attorney responsible for supervising the breaching clerical worker had no prior breaches; the breach was reported shortly after counsel became aware of it; and steps were taken to identify and recover the missing documents.

All three attorneys were found to have committed the second breach, *i.e.*, the direction to an individual not covered by the APO to review APO documents and the release of those APO documents to that individual. Two aggravating circumstances were that the Commission, not the attorneys, discovered the breach, and the BPI was viewed by an unauthorized person. The Commission also considered as mitigating factors that this breach was inadvertent and the attorneys involved had no prior breaches.

Case 2—Counsel in an investigation filed with the Commission a proprietary version of a submission which contained unbracketed BPI and filed the public version of the document without deleting the unbracketed BPI. Counsel became aware of the potential breach, notified the Commission and the parties to the investigation, and retrieved and destroyed all copies of the offending document. The Commission determined that three attorneys breached the APO by failing to bracket BPI in the proprietary version of the document and by failing to delete that BPI from the public version. In reaching its decision to issue warning letters, the Commission considered that this was the only breach in which these attorneys were involved in the prior two-year period generally examined by the Commission for purposes of considering sanctions, the breach was unintentional, and counsel promptly notified the Commission of the breach and took action to remedy it. There was no information in the record suggesting that any non-APO signatories had viewed the BPI. The Commission determined that two attorneys did not breach the APO because they were not responsible for drafting the section of the document containing the unbracketed BPI or for reviewing the document for BPI or proper bracketing.

Case 3—Counsel filed a public version of a document which contained unredacted BPI. The document was prepared by economists at an economic consulting firm which had an arrangement with the law firm to assure that documents they prepared would go through three levels of review for APO compliance. The consulting firm was responsible for the first two levels of review and the law firm was responsible for the final APO review of all materials prepared by the consulting firm. Those responsible for the reviews failed to notice the offending information. The potential breach was identified by the Commission Secretary, who notified an attorney with the law firm who took immediate action to retrieve the offending documents. In response to the Commission inquiry, the law firm asserted that no breach occurred because the bracketed information which was not deleted was publicly available from other sources and was a non-numerical characterization of the prices of one producer which is generally allowed to be publicly disclosed under Commission rules. The Commission did not agree with the law firm's assertions and determined that the APO had been breached because the information was derived from a questionnaire response which is always treated as confidential in its entirety. Further, the information was not available from a public source at the time that it was revealed and was not a non-numerical characterization of aggregate trends as provided for in the Commission rules.

The Commission found that the two economists and two attorneys who were responsible for the final APO review of the submission breached the APO. In issuing warning letters to the two economists and two attorneys, the Commission considered the mitigating factors that the breach was unintentional, resulting from a collective oversight on the part of the economists and the attorneys. The law firm took prompt corrective action as soon as it learned of the breach, and all copies of the offending document were retrieved or destroyed. There was no evidence that persons not subject to the APO actually reviewed the document in question. In reaching its decision, the Commission also considered the aggravating factor that the potential breach was first identified by the Commission Secretary.

The Commission did not find the lead attorney responsible because he had delegated the responsibility for performing the final APO review of the public version of the brief to associates who were experienced in such tasks. Thus, this does not appear to be a case of negligent supervision. In addition, the Commission did not hold responsible for the breach one economist, a legal assistant, and a secretary who were on the APO because they did not have responsibility for the preparation or review of the document.

Case 4—Counsel in an investigation distributed a document which contained unbracketed BPI. The BPI at

issue was contained in a questionnaire response. The potential breach was brought to counsel's attention by an attorney representing another party to the investigation. Counsel immediately informed the Secretary of the potential breach and supervised efforts by law firm personnel to retrieve copies of the document from those who had access to it. Many, but not all, of the copies of the document were retrieved. In responding to the Commission inquiry, counsel asserted that the information was publicly available and that the information was ''innocuous'' and not BPI because it revealed nothing about the substance of the questionnaire response. The Commission was not persuaded by counsel's assertions and determined that the APO had been breached because questionnaire responses are treated as confidential in their entirety unless the responses contain information that is otherwise publicly available. The Commission determined that the economist responsible for preparing the document and the attorney charged with final APO review of materials breached the APO by circulating the document which contained BPI. In issuing private letters of reprimand, the Commission considered the facts that the decision by the attorney and the economist not to bracket and delete the BPI at issue was not inadvertent, the breach was first identified by counsel for another party, and the attorney and economist were unable to account for numerous copies of the document at issue which may remain in the hands of parties not covered by the APO. In reaching its determination, the Commission also considered the mitigating factors that neither the attorney nor the economist had previously breached an APO, and the attorney reported the breach promptly after learning of it.

Case 5—Counsel in an investigation filed a public version of a document containing bracketed but unredacted BPI in footnotes. The information in question was submitted in a questionnaire response and was not publicly available at the time it was revealed in the public version of the document. The Commission Secretary discovered the possible breach and advised counsel, who took prompt measures to retrieve all copies of the relevant document. Although one party not entitled to access to BPI received a copy of the document, there is no evidence that that person actually reviewed the unredacted BPI.

The Commission determined that the attorney responsible for reviewing the document to assure APO compliance had breached the APO by failing to redact bracketed BPI from a public submission. The lead attorney and two paralegals were not found responsible for the breach because the sole responsibility for assuring APO compliance was delegated to the non-lead attorney who was experienced in such matters. In reaching its determination to issue a warning letter, the Commission considered the mitigating factors that this was the attorney's first breach of an APO, the breach was inadvertent, and the attorney took immediate action to retrieve the document in question apparently before any non-signatory to the APO reviewed the BPI at issue. The Commission considered as an aggravating factor the fact that it was the Commission Secretary who discovered the breach.

IV. Investigation in Which No Breach Was Found

During 1998, the Commission completed one investigation in which no breach was found. An attorney attempted to discuss information protected under the APO with a person not on the APO. The Commission determined that the attorney did not breach the APO because the information revealed was inaccurate and was not the information protected under the APO. In advising the attorney that he had not breached the APO on technical grounds, the Commission urged him to exercise greater caution in the future.

Issued: April 27, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–10871 Filed 4–29–99; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Notice of Charter Renewal

In accordance with the provisions of the Federal Advisory Committee Act (Title 5, United States Code, Appendix 2), and Title 41, Code of Federal Regulations, Section 101–6.1015, the Director, FBI, with the concurrence of the Attorney General, has determined that the continuance of the Criminal Justice Information Services (CJIS) Advisory Policy Board (APB) is in the public interest, in connection with the performance of duties imposed upon the FBI by law, and hereby gives notice of the renewal of its charter, effective December 31, 1998.

The APB recommends to the Director, FBI, general policy with respect to the philosophy, concept, and operational principles of the various criminal justice information systems managed by the FBI's CJIS Division.

The APB includes representatives from state and local criminal justice agencies; members of the judicial, prosecutorial, and correctional segments of the criminal justice community; a representative of federal agencies participating in the CJIS systems; and representatives of criminal justice professional associations (i.e., the International Association of Chiefs of Police, the Major Cities Chiefs, Major County Sheriffs' Association, the National Sheriffs' Association, the National District Attorneys Association, and the American Probation and Parole Association). All members of the APB are appointed by the FBI Director.

The APB functions solely as an advisory body in compliance with the provisions of the Federal Advisory Committee Act. The charter has been filed in accordance with the provisions of the Act.

Dated: April 21, 1999.

Louis J. Freeh,

Director.

[FR Doc. 99–10866 Filed 4–29–99; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

April 26, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Acting Departmental Clearance Officer, Pauline Perrow ({202} 219–5096 ext. 165) or by E-Mail to Perrow-Pauline@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ({202} 395–7316), on or before June 1, 1999.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Assistant Secretary for Policy (ASP).

Title: National Agricultural Workers Survey (NAWS)—Child Labor Supplement.

OMB Number: 1225–0044 (Revision).

Frequency: Annually.

Affected Public: Individuals or households, Farms.

Number of Respondents: 7,850.

Estimated Time Per Respondent: ½ hour.

Total Burden Hours: 5,925.

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $0.

Description: The NAWS provides data to public and private service programs and data analysis which are used for the planning, implementing and evaluation of farm workers programs. Analysis provides an understanding of the manpower resources available to the U.S. agriculture and the importance of immigrants in the labor market. It is the only national sources of data on the demographic and employment characteristics of farm workers.

Pauline Perrow,

Acting Departmental Clearance Officer.

[FR Doc. 99–10887 Filed 4–29–99; 8:45 am]

BILLING CODE 4510–23–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determination, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

New General Wage Determination Decisions

The number of the decisions added to the Government Printing Office document entitled ''General Wage Determination Issued Under the Davis-Bacon and related Acts'' are listed by Volume and States:

Volume V

Kansas
KS9900070 (Apr. 30, 1999)

Modications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage determinations Issued Under the Davis—Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

None

Volume II

Maryland
MD990025 (Mar. 12, 1999)

Volume III

Florida
FL990014 (Mar. 12, 1999)
Tennessee
TN990001 (Mar. 12, 1999)

Volume IV

None

Volume V

Kansas
KS990012 (Mar. 12, 1999)
KS990069 (Mar. 12, 1999)

Volume VI

Alaska
AK990001 (Mar. 12, 1999)

Volume VII

None

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts.'' This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC this 22 day of April 1999.

Carl J. Poleskey,

Chief, Branch of Construction Wage

[FR Doc. 99–10606 Filed 4–29–99; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. H–372]

RIN 1218–AB58

Metalworking Funds Standards Advisory Committee: Notice of Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Metalworking Fluids Standards Advisory Committee: Notice of meeting.

SUMMARY: The Metalworking Fluids Standards Advisory Committee (MWFSAC), established under Section 7 of the Occupational Safety and Health At of 1970 to advise the Secretary of Labor on appropriate actions to protect workers from the hazards associated with occupational exposure to metalworking fluids, will meet in the Baltimore area on Tuesday and Wednesday, May 18, and May 19, 1999.

DATES: The meeting will be held May 18, 1999, from 10 a.m. to approximately 6:00 p.m.; on May 19, from 8:00 a.m. to approximately 4:00 p.m.

ADDRESSES: The Committee will meet at the Baltimore Marriott Hunt Valley Inn, 245 Shawan Road, Hunt Valley, MD 21031–1099. Telephone: (410) 785–7000.

Mail comments, views, or statements in response to this notice to Dr. Peter Infante, U.S. Department of Labor, OSHA, Directorate of Health Standards Programs, Metalworking Fluids Standards Advisory Committee, Room N–3718, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Bonnie Friedman, Director, Office of Information and Consumer Affairs, OSHA, (202) 693–1999.

SUPPLEMENTARY INFORMATION: All interested persons are invited to attend the public meeting of the Metalworking Fluids Standards Advisory Committee at the times and location indicated above. Individuals with disabilities wishing to attend should contact Theresa Berry at (202) 693–1999 (Fax: 202–693–1634) no later than May 13, 1999, to obtain appropriate accommodations.

Meeting Agenda

The Committee will discuss best practices related to using metalworking fluids and clarify criteria on systems management, medical surveillance, and training. The Committee may also consider the issues of health effects, regulatory versus voluntary approaches to limit exposure, and economic feasibility.

Public Participation

Written data, views, or comments for consideration by the MWFSAC on the various agenda items listed above may be submitted, preferably with 25 copies, to Dr. Peter Infante. Submissions received by May 12, 1999, will be provided to the members of Committee. Anyone wishing to make an oral presentation to the Committee on any of the agenda items listed above should notify Dr. Peter Infante at the address listed above. The request to speak should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Requests to make oral presentations to the Committee may be granted if time permits.

Authority: This notice is issued under the authority of Sections 6(b)(1) and 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 656), the Federal Advisory Committee Act (5 U.S.C. App. 2), and 29 CFR Part 1912.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 99–10869 Filed 4–29–99; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (99–062)]

NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC), Solar System Exploration (SSES); Subcommittee Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science Advisory Committee, SSES Subcommittee.

DATES: Tuesday, May 18, 1999, 12:30 p.m. to 5:00 p.m.; Wednesday, May 19, 1999, 8:00 a.m. to 5:00 p.m.

ADDRESSES: NASA Headquarters, Conference Room MIC–5, Room 5H46, 300 E Street, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Carl B. Pilcher, Code S, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0291.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following topics:

—New Initiative and Strategic Plan Missions
—Technology Roadmaps with Strategic Plan Missions
—Mars Discussion and Recommendations
—Mars Outposts and the Future Mars Program: Strategic Plan Input

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: April 22, 1999.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 99–10834 Filed 4–29–99; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request approval of an information collection currently in use without an OMB Control Number, used when former Federal civilian employees and other authorized individuals request information from or copies of documents in Official Personnel Folder's or Employee Medical Folder's from the National Personnel Records Center (NPRC) of the National Archives and Records Administration (NARA) . The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before June 29, 1999 to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 3200, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to 301–713–6913; or electronically mailed to tamee.fechhelm@arch2.nara.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–713–6730, or fax number 301–713–6913.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Returned Request Form, Reply to Request Involving Relief Agencies, Walk-In Request for OPM Records or Information.

OMB number: New.

Agency form number: NA Forms 13022, 13064, 13068.

Type of review: Regular.

Affected public: Former Federal civilian employees, their authorized representatives, state and local governments, and businesses.

Estimated number of respondents: 4,500.

Estimated time per response: 5 Minutes.

Frequency of response: On occasion, when individuals desire to acquire information from civilian personnel or medical records.

Estimated total annual burden hours: 375 hours.

Abstract: In accordance with rules issued by the Office of Personnel Management, the National Personnel Records Center (NPRC) of the National Archives and Records Administration (NARA) administers Official Personnel Folders (OPF) and Employee Medical Folders (EMF) of former Federal civilian employees. When former Federal civilian employees and other authorized individuals request information from or copies of documents in OPF's or EMF's, they must provide in forms or in letters certain information about the employee and the nature of the request. The NA Form 13022, Returned Request Form, is used to request additional information about the former Federal employee. The NA Form 13064, Reply to Request Involving Relief Agencies, is used to request additional information about the former relief agency employee. The NA Form 13068, Walk-In Request for OPM Records or Information, is used by members of the public, with proper authorization, to request a copy of a Personnel or Medical record.

Dated: April 26, 1999.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 99–10831 Filed 4–29–99; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

National Endowment for the Arts

President's Committee on the Arts and the Humanities; Meeting XLV

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L 92–463), as amended, notice is hereby given that a meeting of the President's Committee on the Arts and the Humanities will be held on May 21, 1999 from (9:00 a.m. to approximately 2:30 p.m. The meeting will be held in the Third Floor Library of the Smithsonian Institution Building (The Castle), 1000 Jefferson Drive, SW, Washington, DC.

The Committee meeting will begin at (9:00 a.m. with a welcome from a representative of the Smithsonian Institution and Chairman's remarks by Dr. John Brademas. This will be followed by the Executive Director's Update from Harriet Mayor Fulbright, including a status report on the Coming Up Taller awards program. The Committee will hear presentations from Bill Ivey, Chairman of the National Endowments for the Arts, Bill Ferris, Chairman of the National Endowment for the Humanities, and Beverly Sheppard, Acting Director of the Institute of Museum & Library Services. In addition, there will a briefing and discussion about the work of the PCAH Planning Committee. The meeting will conclude with an informal lunch for members, including a presentation on ''Technology and the Humanities,'' by Professor Edward L. Ayers, University of Virginia.

The President's Committee on the Arts and the Humanities was created by Executive Order in 1982 to advise the President, the two Endowments, and the Institute of Museum and Library Services on measures to encourage private sector support for the Nation's cultural institutions and to promote public understanding of the arts and the humanities.

If, in the course of discussion, it becomes necessary for the Committee to discuss non-public commercial or financial information of intrinsic value, the Committee will go into closed session pursuant to subsection (c)(4) of

the Government in the Sunshine Act, 5 U.S.C. 552b.

Any interested persons may attend as observers, on a space available basis, but seating is limited. Therefore, for this meeting, individuals wishing to attend must contact Regina Ayquia of the President's Committee in advance at (202) 682–5409 or write to the Committee at 1100 Pennsylvania Avenue, NW, Suite 526, Washington, DC 20506. Further information with reference to this meeting can also be obtained from Ms. Syquia.

If you need special accommodations due to a disability, please contact Ms. Syquia through the Office of Access Ability, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Dated: April 22, 1999.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 99–10843 Filed 4–29–99; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL GAMBLING IMPACT STUDY COMMISSION

Meeting

AGENCY: National Gambling Impact Study Commission.

ACTION: Notice of public meeting

SUMMARY: At its thirteenth regular meeting the National Gambling Impact Study Commission, established under Public Law 104–169, dated August 3, 1996, will hear possible presentations from one or more subcommittees; continue its ongoing review of Commission research on economic and social gambling impacts; and deliberate on possible findings and recommendations for the Final Report.

DATES: Monday, May 17, 8:30 a.m. to 5:30 p.m. and Tuesday, May 18, 8:30 a.m. to 5:30 p.m.

ADDRESSES: The meeting site will be: Federal North, Holiday Inn on the Hill, 415 New Jersey Avenue, NW, Washington, D.C. 20001.

Written comments can be sent to the Commission at 800 North Capitol Street, N.W., Suite 450, Washington, D.C. 20002.

STATUS: The meeting will be open to the public both days.

CONTACT PERSONS: For further information contact Craig Stevens at (202) 523–8217 or write to 800 North Capitol St., N.W., Suite 450, Washington, D.C. 20002.

SUPPLEMENTARY INFORMATION: For a complete agenda, please contact the Commission. This information will also be faxed to all individuals on the Commission's fax list and posted on the Commission's web site, *www.ngisc.gov*.

Craig Stevens,

Communications and Logistics Coordinator.

[FR Doc. 99–10919 Filed 4–29–99; 8:45 am]

BILLING CODE 6802–ET–P

NATIONAL LABOR RELATIONS BOARD

Privacy Act of 1974; Publication of Revised System of Records Notice

AGENCY: National Labor Relations Board (NLRB).

ACTION: Revised publication of System of Records Notice NLRB–2, Applicant Files for Attorney and Field Examiner Positions.

SUMMARY: The Privacy Act of 1974, as amended, requires that each agency publish a notice of a proposed new System of Records, as well as proposals to revise existing Systems of Records. This notice alters an existing Privacy Act System of Records Notice NLRB–2, Applicant Files for Attorney and Field Examiner Positions, by deleting two routine uses, dividing one routine use into two distinct uses for purposes of clarity, amending the language of four routine uses, updating the addresses of system locations, and updating the citations referring to 29 CFR 102.117; as well as making several insignificant administrative language revisions.

All persons are advised that in the absence of submitted comments, views, or arguments considered by the NLRB as warranting modification of the notice as herewith to be published, it is the intention of the NLRB that the notice shall be effective upon expiration of the comment period without further action by this Agency.

DATES: The amended System of Records Notice will become effective without further notice 30 days from the date of this publication (June 1, 1999) unless comments are received on or before that date which result in a contrary determination.

ADDRESSES: All persons who desire to submit written comments, views, or arguments for consideration by the NLRB in connection with the proposed revised System of Records Notice shall file them with the Executive Secretary, National Labor Relations Board, 1099 14th Street, NW, Room 11600, Washington, DC 20570–0001.

Copies of all such communications will be available for examination by interested persons during normal business hours in the Office of the Executive Secretary, National Labor Relations Board, 1099 14th Street, NW, Room 11600, Washington, DC 20570–0001.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Executive Secretary, National Labor Relations Board, 1099 14th Street, NW, Room 11600, Washington, DC 20570–0001.

SUPPLEMENTARY INFORMATION: The following changes have been made to the existing NLRB System of Records Notice NLRB–2, Applicant Files for Attorney and Field Examiner Positions.

1. Routine uses 1 and 2 have been deleted because the specified ''need to know'' in them is authorized by 5 U.S.C. 552a(b)(1) and (5). Routine use 3 has been renumbered 1.

2. The language of routine use 4 has been amended to specify that on disclosure to an inquiring congressional office, the subject individual must be a constituent about whom the records are maintained. Routine use 4 has been renumbered 2.

3. Routine use 5 has been divided into two distinct uses 3 and 4 for purposes of clarity, one dealing solely with arbitrators and the other with officials of labor organizations. The language has been amended to conform to the intent of routine use (e) in the Government-wide System of Records OPM/GOVT–2, Employee Performance File System Records, to eliminate the NLRB requirement that the information that may be disclosed to a labor organization ''shall be furnished in depersonalized form, i.e., without personal identifiers.'' Routine use (e) is a Government-wide System of Records OPM/GOVT–2 which provides that the information will be ''disclosed to an arbitrator to resolve disputes under a negotiated grievance procedure or to officials of labor organizations under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation.'' The NLRB is deleting the requirement that ''[W]henever feasible and consistent with the responsibilities under the Act, such information shall be furnished in depersonalized form, i.e., without personal identifiers,'' a requirement not contained in OPM–GOVT–2 routine use (e).

4. Routine use 7 has been amended by changing reference from ''Agency'' to ''NLRB'' for more specificity. Routine use 7 has been renumbered 6.

5. Routine use 8 is amended to specify more exactly the information that may be disclosed to a court or an adjudicative body in the course of presenting evidence or argument

including disclosure to opposing counsel or witnesses in the course of civil discovery. Routine use 8 has been renumbered 7.

6. The address of system locations and manages in NLRB–2 has been changed from ''NLRB, 1717 Pennsylvania Avenue, NW, Washington, DC 20570–0001'' to ''NLRB, 1099 14th Street, NW, Washington, DC 20570–0001.''

7. Reference to 29 CFR 102.117 citations have been changed to read as follows for the paragraphs in Notifications Procedures, 29 CFR 102.117(f); Records Access Procedures, 29 CFR 102.117(g) and (h); and Contesting Records Procedures, 29 CFR 102.117(i).

A report of the proposal to revise this system of records was filed pursuant to 5 U.S.C. 552(r) with Congress and the Office of Management and Budget.

Dated: Washington, DC, April 21, 1999.

By direction of the Board.

John J. Toner,

Executive Secretary.

NLRB–2

SYSTEM NAME:

Applicant Files for Attorney and Field Examiner Positions.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

Office of Executive Assistant, Division of Operations Management; Office of the Executive Secretary, NLRB, 1099 14th Street, NW, Washington, DC 20570–0001.

Washington and Field Offices are authorized to maintain the records or copies of the records in connection with processing of applications for employment in the Agency. See the attached appendix for addresses of the Washington and Field Offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for Attorney or Field Examiner positions in offices under the general supervision of the General Counsel; applicants for Attorney positions on Board Member's staffs, in the Office of the Solicitor, and in the Office of Representation Appeals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include copies of employment applications; educational transcripts, resumes, employment interview reports, and other information related to employment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3301 *et seq.*; 29 U.S.C. 153(d), 154, 159, and 160.

PURPOSE(S):

These records document the skills and background of applicants for attorney and field examiner positions within the NLRB.

ROUTINE USES OR RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records or information contained therein may be disclosed to:

1. Individuals who need the information in connection with the processing of an appeal, grievance, or complaint.

2. A Member of Congress or to a Congressional staff member in response to an inquiry of the congressional office made at the written request of the constituent about whom the records are maintained.

3. Officials of labor organizations recognized under 5 U.S.C. Chapter 71, when disclosure is not prohibited by law; and the data is normally maintained by the Agency in the regular course of business and is reasonably available and necessary for full and proper discussion, understanding and negotiation of subjects within the scope of collective bargaining. The foregoing shall have the identical meaning as 5 U.S.C. 7114(b)(4) as interpreted by the FLRA and the courts.

4. An arbitrator is resolve disputes under a negotiated grievance arbitration procedure.

5. Other agencies, offices, establishments, and authorities, whether Federal, state, or local, authorized or charged with responsibility to investigate, litigate, prosecute, enforce, or implement a statute, rule, regulation, or order, where the record or information, by itself or in connection with other records or information, indicates a violation or potential violation of law, whether criminal, civil, administrative, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto.

6. The Department of Justice for use in litigation when either: (a) The NLRB of any component thereof, (b) any employee of the NLRB in his or her official capacity, (c) any employee of the Agency in his or her individual capacity, where the Department of Justice has agreed to represent the employee, or (d) the United States Government where the NLRB determines that litigation is likely to affect the NLRB or any of its components, is a party to litigation or has interest in such litigation, and the use of such records by the Department of Justice is deemed by the NLRB to be relevant and necessary to the litigation, provided that in each case the Agency determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

7. A court, magistrate, administrative tribunal, or other adjudicatory body in the course of presenting evidence or argument, including disclosure to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in connection with criminal law proceedings, when: (a) The NLRB or any component thereof, or (b) any employee of the NLRB in his or her official capacity; or (c) any employee of the NLRB in his or her individual capacity, where the NLRB has agreed to represent the employee, or (d) the United States Government is a party to litigation or has an interest in such litigation, and determines that such disclosure is relevant and necessary to the litigation and that the use of such records is therefore deemed by the NLRB to be for a purpose that is compatible with the purpose for which the records were collected.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper including forms, letters, and memoranda.

RETRIEVABILITY:

Alphabetically by name.

SAFEGUARDS:

Maintained in file cabinets. During duty hours cabinets are under surveillance of personnel charged with custody of the records and after duty hours are behind locked doors. Access to the cabinets is limited to personnel having a need for access to perform their official functions.

RENTENTION AND DISPOSAL:

Employment applications not resulting in appointment are destroyed when 2 years old.

SYSTEM MANAGER(S) AND ADDRESS:

1. To those applicants for positions under supervision of the General Counsel—Executive Assistant, Division of Operations Management, NLRB, 1099 14th Street, NW, Washington, DC 20570.

2. To those applicants for positions under the supervision of a Board

Member, the Director of the Office of Representation Appeals, and the Solicitor—Executive Secretary, NLRB, 1099 14th Street, NW., Washington, DC 20570–0001.

See the attached appendix for titles and addresses of officials at other locations responsible for this system at their location.

NOTIFICATION PROCEDURE:

An individual may inquire as to whether this system contains a record pertaining to him or her by directing a request to the appropriate System Manager in accordance with the procedures set forth in 29 CFR 102.117(f).

RECORD ACCESS PROCEDURE:

An individual seeking to gain access to records in this system pertaining to him or her should contact the appropriate System Manager in accordance with the procedures set forth in 29 CFR 102.117 (g) and (h).

CONTESTING RECORD PROCEDURES:

An individual may request amendment of a record pertaining to him or her maintained in this system by directing a request to the appropriate System Manager in accordance with the procedures set forth in 29 CFR 102.117(i).

RECORD SOURCE CATEGORIES:

Applicants, educational institutions, interviewers, evaluators, personnel specialists, references, previous employers.

Appendix

Names and Addresses of NLRB Offices referenced in Notice of Records System shown above.

NLRB HEADQUARTERS OFFICES, 1099 14th Street, NW, Washington, DC 20570–0001

OFFICES OF THE BOARD

Members of the Board

Executive Secretary, Office of the Executive Secretary

Director, Office of Representation Appeals

Director, Division of Information

Solicitor

Inspector General, Office of Inspector General

Chief Administrative Law Judge, 1099 14th Street, NW, Room 5400 East, Washington, DC 20570–0001

Associate Chief Administrative Law Judge, San Francisco Judges, 901 Market Street, Suite 300, San Francisco, California 94103–1779

Associate Chief Administrative Law Judge, New York Judges, 120 West 45th Street, 11th Floor, New York, New York 10036–5503

Associate Chief Administrative Law Judge, Atlanta Judges, Peachtree Summit Building, 401 W. Peachtree Street, NW, Suite 1708, Atlanta, Georgia 30308–3510

OFFICES OF THE GENERAL COUNSEL

General Counsel

Associate General Counsel, Division of Operations Management

Associate General Counsel, Division of Advice

Associate General Counsel, Division of Enforcement Litigation

Director, Division of Administration

Director, Equal Employment Opportunity

NLRB FIELD OFFICES

Regional Director, Region 1, Thomas P. O'Neal Jr. Federal Office Building, 10 Causeway Street, 6th Floor, Boston, Massachusetts 02222–1072

Regional Director, Region 2, Jacob K. Javits Federal Building, 26 Federal Plaza, Room 3614, New York, New York 10278–0104

Regional Director, Region 3, Thaddeus J. Dulski Federal Building, 111 West Huron Street, Room 901, Buffalo, New York 14202–2387

Resident Officer, Albany Resident Office, Leo W. O'Brien Federal Building, Clinton Avenue at N. Pearl Street, Room 342, Albany, New York 12207–2350

Regional Director, Region 4, One Independence Mall, 615 Chestnut Street, 7th Floor, Philadelphia, Pennsylvania 19106–4404

Regional Director, Region 5, The Appraisers Store Building, 103 South Gay Street, 8th Floor, Baltimore, Maryland 21202–4026

Resident Officer, Franklin Court Building, 1099 14th Street, NW, Suite 5530, Washington, DC 20570–0001

Regional Director, Region 6, William S. Moorehead Federal Building, 1000 Liberty Avenue, Room 1501, Pittsburgh, Pennsylvania 15222–4173

Regional Director, Region 7, Patrick V. McNamara Federal Building, 477 Michigan Avenue, Room 300, Detroit, Michigan 48226–2569

Resident Officer, Grand Rapids Resident Office, The Furniture Company Building, 82 Ionia Northwest, Room 330, Grand Rapids, Michigan 49503–3022

Regional Director, Region 8, Anthony J. Celebrezze Federal Building, 1240 East 9th Street, Room 1695, Cleveland, Ohio 44199–2086

Regional Director, Region 9, John Weld Peck Federal Building, 550 Main Street, Room 3003, Cincinnati, Ohio 45202–3271

Regional Director, Region 10, Harris Tower, 233 Peachtree Street, NE, Suite 1000, Atlanta, Georgia 30303–1504

Resident Officer, The Burger-Phillips Centre, 1900 3rd Avenue North, Suite 311, Birmingham, Alabama 35203–3511

Regional Director, Region 11, Republic Square, Suite 200, 4035 University Parkway, Winston-Salem, North Carolina 27106–3325

Regional Director, Region 12, South Trust Plaza, Suite 530, 201 East Kennedy Boulevard, Tampa, Florida 33602–5824

Resident Officer, Jacksonville Resident Office, Federal Building, 400 West Bay Street, Room 214, Box 35091, Jacksonville, Florida 32202–4412

Resident Officer, Miami Resident Office, Federal Building, 51 Southwest 1st Avenue, Room 1320, Miami, Florida 33130–1608

Regional Director, Region 13, 200 West Adams Street, Suite 800, Chicago, Illinois 60606–5208

Regional Director, Region 14, 1222 Spruce Street, Room 8.302, Saint Louis, Missouri 63103–2829

Regional Director, Region 15, 1515 Poydras Street, Room 610, New Orleans, Louisiana 70112–3723

Regional Director, Region 16, Federal Office Building, 819 Taylor Street, Room 8A24, Forth Worth, Texas 76102–6178

Resident Officer, Houston Resident Office, 440 Louisiana Street, Suite 550, Houston, Texas 77002–2649

Resident Officer, San Antonio Resident Office, 615 E. Houston Street, Room 565, San Antonio, Texas 78205–2040

Regional Director, Region 17, 8600 Farley Street, Suite 100, Overland Park, Kansas 66212–4677

Resident Officer, Tulsa Resident Office, 224 South Boulder Avenue, Room 318, Tulsa, Oklahoma 74103–3027

Regional Director, Region 18, 234 Federal Courts Building, 110 South 4th Street, Room 234, Minneapolis, Minnesota 55401–2291

Resident Officer, Des Moines Resident Office, 210 Walnut Street, Room 439, Des Moines, Iowa 50309–2116

Regional Director, Region 19, Henry M. Jackson Federal Building, 915 Second Avenue, Room 2948, Seattle, Washington 98174–1078

Resident Officer, Anchorage Resident Office, 222 West 7th Avenue, Box 21, Anchorage, Alaska 99513–3546

Officer in Charge, Subregion 36, 222 SW Columbia Street, Room 401, Portland, Oregon 97201–6604

Regional Director, Region 20, 901 Market Street, Suite 400, San Francisco, California 94103–1735

Officer in Charge, Subregion 37, Prince Kuhio Federal Building, 300 Ala Moana Boulevard, Room 7–245, Honolulu, Hawaii 96850–4980

Regional Director, Region 21, 888 South Figueroa Street, 9th Floor, Los Angeles, California 90017–5449

Resident Officer, San Diego Resident Office, Pacific Professional Center, 555 West Beech Street, Suite 302, San Diego, California 92101–2939

Regional Director, Region 22, 20 Washington Place, 5th Floor, Newark, New Jersey 07102–2570

Regional Director, Region 24, La Torre de Plaza, 525 F.D. Roosevelt Avenue, Suite 1002, San Juan, Puerto Rico 00918–1002

Regional Director, Region 25, Minton-Capehard Federal Building, 575 North Pennsylvania Street, Room 238, Indianapolis, Indiana 46204–1577

Regional Director, Region 26, Mid-Memphis Tower Building, 1407 Union Avenue, Suite 800, Memphis, Tennessee 38104–3627

Resident Officer, Little Rock Resident Office, TCBY Tower, 425 West Capitol Avenue, Suite 375, Little Rock, Arkansas 72201–3489

Resident Officer, Nashville Resident Officer, 810 Broadway, 3rd Floor, Nashville, Tennessee 37203–3816
Regional Director, Region 27, Dominion Plaza, North Tower, 600 17th Street, 7th Floor, Denver, Colorado 80202–5433
Regional Director, Region 28, Security Building, 234 North Central Avenue, Suite 440, Phoenix, Arizona 85004–2212
Resident Officer, Albuquerque Resident Office, Western Bank Plaza, 505 Marquette Avenue, NW, Room 1820, Albuquerque, New Mexico 87102–2181
Resident Officer, Las Vegas Resident Office, Alan Bible Federal Building, 600 Las Vegas Boulevard South, Suite 400, Las Vegas, Nevada 89101–6637
Resident Officer, El Paso Resident Office, P.O. Box 23159, El Paso, Texas 79923–3159
Regional Director, Region 29, One Metro Tech Center, Jay Street and Myrtle Avenue, 10th Floor, Brooklyn, New York 11201–4201
Regional Director, Region 30, Henry S. Reuss Federal Plaza, 310 West Wisconsin Avenue, Suite 700, Milwaukee, Wisconsin 54203–2211
Regional Director, Region 31, 11150 W. Olympic Boulevard, Suite 700, Los Angeles, California 90064–1824
Regional Director, Region 32, Breuner Building, 2nd Floor, 1301 Clay Street, Room 300N, Oakland, California 94612–5211
Regional Director, Region 33, Hamilton Square Building, 300 Hamilton Boulevard, Suite 200, Peoria, Illinois 61602–1246
Regional Director, Region 34, One Commercial Plaza, 280 Trumbull Street, 21st Floor, Hartford, Connecticut 06103–3599

[FR Doc. 99–10748 Filed 4–29–99; 8:45 am]

BILLING CODE 7545–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Number 40–3453]

Atlas Corporation; Notice of Availability of Supplement to the Final Technical Evaluation Report for the Proposed Revised Reclamation Plan for the Atlas Corporation Moab Mill

AGENCY: Nuclear Regulatory Commission.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) announces the availability of a Supplement to the Final Technical Evaluation Report for the Proposed Revised Reclamation Plan for the Atlas Corporation Moab Mill.

FOR FURTHER INFORMATION CONTACT: Dr. Myron Fliegel, Uranium Recovery and Low-Level Waste Branch, Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 415–6629.

SUPPLEMENTARY INFORMATION: A Supplement to the Final Technical Evaluation Report (FTER), which provides updated information developed at the Atlas Moab Mill since the publication of the FTER in March 1997, is being made available for public inspection at NRC's Public Document Room at 2120 L Street, NW (Lower Level), Washington, DC 20555.

The Supplement to the FTER, pertaining to the proposed revised reclamation plan submitted by Atlas Corporation, summarizes NRC staff's review of additional site data developed for the U.S. Fish and Wildlife Service (FWS), as a part of the Section 7 Endangered Species Act (ESA) consultation process, and additional analyses performed by the Center for Nuclear Waste Regulatory Analyses (CNWRA) regarding performance of the proposed reclamation. The additional data was developed by the FWS in order for it to issue a Final Biological Opinion in accordance with the ESA. The results and conclusions of the Section 7 consultation are presented in the Final Environmental Impact Statement (FEIS). The FTER was issued in March 1997 and contained staff's analysis and conclusions that the proposed on-site reclamation of the existing uranium mill tailings pile complies with the requirements contained in Title 10 Code of Federal Regulations (CFR) part 40. The additional data and analyses did not conflict with staff's analysis or conclusion of acceptability contained in the FTER; however, a supplement is needed to update the information contained in the FTER.

Dated at Rockville, Maryland, this 26th day of April, 1999.

For the Nuclear Regulatory Commission.

N. King Stablein,

Acting Chief, Uranium Recovery and Low-Level Waste Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–10835 Filed 4–29–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–309]

Maine Yankee Atomic Power Company, Maine Yankee Atomic Power Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to the Appendix A Technical Specifications (TS) to Facility Operating License No. DPR–36, a license held by the Maine Yankee Atomic Power Company (MYAPCo or the licensee). The amendment would apply to the Maine Yankee Atomic Power Station (Maine Yankee), a permanently shutdown plant located at the MYAPCo site in Lincoln County, Maine.

Environmental Assessment

Identification of Proposed Action

The proposed action would change the liquid and gaseous release rate limits included in the Radioactive Effluent Control Program portion of the TS to reflect revisions to 10 CFR part 20, ''Standards for Protection Against Radiation.'' The proposed action is in accordance with the licensee's application dated July 14, 1998.

The Need for the Proposed Action

The proposed action is needed to update the license to incorporate revised requirements of 10 CFR Part 20 (i.e., the need for the proposed action was created by a change in the regulatory requirements).

Environmental Impact of the Proposed Action

The Commission has completed its evaluation of the proposed amendment to the Maine Yankee TS and concludes that issuance of the proposed amendment will not cause an increase in individual or cumulative occupational radiation exposures. The proposed change in TS effluent release rates will allow the licensee to retain operational flexibility consistent with the design objectives for radioactive effluent releases in Appendix I to 10 CFR Part 50 and will not have a negative impact on the licensee's ability to continue to operate within as low as reasonably achievable (ALARA) criteria.

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 off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological 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 not involve the use of any resources not previously considered in the Final Environmental Statement related to Operation of Maine Yankee Atomic Power Station (July 1972).

Agencies and Persons Consulted

In accordance with its stated policy, on March 29, 1999, the NRC staff consulted with the Maine State Official, Mr. Patrick Dostie, Department of Human Services, 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 action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this action, see the licensee's letter dated July 14, 1998, which is available for public inspection at the Commission Public Document Room, Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at the Wiscasset Public Library, High Street, Post Office Box 367, Wiscasset, Maine, 04578.

Dated at Rockville, Maryland, this 23rd day of April 1999.

For the Nuclear Regulatory Commission.

Michael T. Masnik,

Chief, Decommissioning Section, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–10836 Filed 4–29–99; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of May 3, 1999.

A closed meeting will be held on Monday, May 3, 1999, at 12:00 noon.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Carey, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Monday, May 3, 1999, at 12:00 noon, will be:

Institution of injunctive actions.

Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

Institution of administrative proceedings of an enforcement nature.

Settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 942–7070.

Dated: April 27, 1999.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–10980 Filed 4–28–99; 11:20 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41326; File No. SR–NASD–98–96]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by NASD, Inc. Relating to Amendments to Forms U–4 and U–5

April 22, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 18, 1998, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly owned subsidiary NASD Regulation, Inc. (''NASD Regulation'' or ''NASDR''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. On March 30, 1999, NASD Regulation submitted Amendment No. 1 to the proposed rule change.[3] NASD Regulation submitted Amendment No. 2 to the proposed rule change on April 7, 1999.[4] On April 15, 1999, NASD Regulation submitted Amendment No. 3 to the proposed rule change.[5] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDR is proposing to amend the Form U–4, the Uniform Application for Securities Industry Registration or Transfer, and the Form U–5, the Uniform Termination Notice for Securities Industry Termination

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from John M. Ramsay, Vice President and Deputy General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated March 30, 1999. In Amendment No. 1, NASD Regulation amended the rule filing by adding information about changes to four disclosure questions on Forms U–4 and U–5 (''Amendment No. 1'').

[4] *See* letter from John M. Ramsay, Vice President and Deputy General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated April 7, 1999. In Amendment No. 2, NASD Regulation added information about the implementation and effective dates of the WEB CRD system and made minor changes to clarify some of the text (''Amendment No. 2'').

[5] *See* letter from John M. Ramsay, Vice President and Deputy General Counsel, NASD Regulation, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated April 15, 1999. In Amendment No. 3, NASD Regulation made a minor textual change (''Amendment No. 3'').

(collectively ''Proposed Forms'').[6] Proposed changes to disclosure questions on the Proposed Forms are set forth below.[7] Additions are italicized; deletions are bracketed.

1996 Form U–4 Question 22I(2)

Have you ever been the subject of an investment-related, consumer-initiated [written] complaint, not otherwise reported under question 22I(1) above, which alleged that you were involved in one or more sales practice violations, and which complaint was settled for an amount of $10,000 or more?

1996 Form U–5 Question 14

While employed by or associated with your firm, *or in connection with events that occurred while the individual was employed by or associated with your firm,* was the individual:

A. convicted of or did the individual plead guilty or nolo contendere (''no contest'') in a domestic, or foreign or military court to any felony?

B. charged with any felony?

C. convicted of or did the individual plead guilty or nolo contendere (''no contest'') in a domestic, foreign or military court to a misdemeanor involving: investments or an investment-related business, or any fraud, false statements or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses?

D. charged with a misdemeanor specified in 14(C)?

1996 Form U–5 Question 15

While employed by or associated with your firm, *or in connection with events that occurred while the individual was employed by or associated with your firm,* was the individual involved in any disciplinary action by a domestic or foreign governmental body or self-regulatory organization (other than those designated as a ''minor rule violation'' under a plan approved by the U.S. Securities and Exchange Commission) with jurisdiction over the investment-related businesses?

1996 Form U–5 Question 17

A: In connection with events that occurred while the individual was employed *by* or associated with your firm, was the individual:

(1) named as a respondent/defendant in an investment-related, consumer-initiated arbitration or civil litigation which alleged that the individual was involved in one or more sales practice violations and which:

(a) is still pending, or;

(b) resulted in an arbitration award or civil judgment against the individual, regardless of amount, or,

(c) was settled for an amount of $10,000 or more*?*[, or;]

(2) the subject of an investment-related, consumer-initiated [written] complaint, not otherwise reported under question 17(A)(1) above, which alleged that the individual was involved in one or more sales practice violations, and which complaint was settled for an amount of $10,000 or more?

B. In connection with events that occurred while the individual was employed by or associated with your firm, [but for a period not to exceed the most recent twenty-four (24) months of employment,] was the individual the subject of an investment-related, consumer-initiated written complaint, not otherwise reported under question 17(A) above, which:

[(1) alleged that the individual was involved in one or more sales practice violations and contained a claim for compensatory damages of $5,000 or more (if no damage amount is alleged, the complaint must be reported unless the firm has made a good faith determination that the damages from the alleged conduct would be less than $5,000), or];

(1) would be reportable under question 22I(3)(a) on Form U–4, if the individual were still employed by your firm, but which has not previously been reported on the individual's Form U–4 by your firm; or

[(2) alleged that the individual was involved in forgery, theft, misappropriation or conversion of funds or securities?]

(2) would be reportable under question 22I(3)(b) on Form U–4, if the individual were still employed by your firm, but which has not previously been reported on the individual's Form U–4 by your firm.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDR included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASDR has prepared summaries, set forth in Sections A, B, C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 5, 1996, the Commission approved amendments to Forms U–4 and U–5 (''1996 Forms'').[8] These amendments were developed by a task force of representatives from the NASD the Commission, the North American Securities Administrators Association (''NASAA''), the securities industry, and other self-regulatory organizations (''SROs''). The 1996 Forms were to become effective with the implementation of a redesigned CRD system that used a network-based architecture and proprietary software developed by the NASD; members would submit the 1996 Forms electronically.[9] The 1996 Forms included both technical and formatting changes to accommodate the CRD redesign and substantive changes to the instructions and disclosure questions.

In 1997, NASDR determined to proceed with a Web-based approach to the CRD system rather than using a network-based architecture and proprietary software. This ''Web CRD'' system, which will permit members to submit the Proposed Forms electronically via NASD Regulation's World Wide Web site, is currently in development. In 1997, NASDR and NASAA also determined that it was possible to implement the changes to the disclosure questions and some of the new instructions while Web CRD was being developed. Therefore, NASDR submitted Interim Forms U–4 and U–5 to the Commission in October 1997.[10] The Interim Forms included all of the substantive changes to the disclosure questions and some of the changes to the instructions that were approved in 1996 and reformatted them in a manner that is compatible with the current CRD system. In January 1998, the Commission approved the Interim

[6] Copies of the Proposed Forms are attached as Exhibit 4 to Amendment No. 1 and are available in the Commission's Public Reference Room and from NASDR by calling 301–590–6142.

[7] The proposed disclosure questions reflect changes to the questions on the Forms U–4 and U–5 that were approved by the Commission on July 5, 1996. In addition, conforming changes were made to the Disclosure Reporting Pages (''DRPs'') for these questions.

[8] Securities Exchange Act Release No. 37407 (July 5, 1996), 61 FR 36595 (July 11, 1996) (File No. SR–NASD–96–19).

[9] *Id.*

[10] Securities Exchange Act Release No 39322 (Nov. 13, 1997), 62 FR 62391 (Nov. 21, 1997)(File No SR–NASD–97–78).

Forms for use until Web CRD is completed.[11]

Due to the differences between the network-based and Web-based approaches to the CRD system, NASDR proposes additional formatting and technical changes to the 1996 Forms. These changes are needed to fully implement the Web CRD system. NASDR believes that the Proposed Forms will be simpler for member firms to complete than the 1996 Forms. NASAA approved all of the proposed changes described below at its October 4, 1998, membership meeting.[12]

NASDR has reformatted several sections of the 1996 Forms to simplify data entry and minimize errors in completing the Forms. First, the DRPs for the Proposed Forms have been simplified. The 1996 DRPs elicited more detailed information about reportable events than previously elicited on DRPs. Regulators had indicated that they needed this additional detail to make informed licensing and registration decisions and that the revised DRPs would reduce regulatory requests for additional information, which invariably prolonged the registration review and licensing process. However, the 1996 DRPs required that the additional detail be entered into numerous discrete fields.

While this approach was intended to provide all CRD users with the additional benefits of maximum flexibility in making queries to and deriving customized reports from the system, it resulted in unanticipated practical drawbacks. The most significant drawback was that the more complex data structure required to support the 1996 DRPs would cause the system to operate too slowly to meet users' needs. Theoretically, the 1996 DRP data structure provided the ability to sort on and create reports using all of the discrete data fields; as a practical matter, however, the time required to process those queries and produce those reports was unacceptable. The demands placed on the system by the generation of routine reports, ad hoc reports containing numerous discrete data fields, and routine user queries would not allow for acceptable response times for users. Therefore, following discussions with NASAA, industry representative, and other regulators, NASDR reformatted the DRPs by reducing the number of discrete fields and adding text blocks to simplify the data structure and the data relationships.

NASDR believes that all of the information necessary for regulators to make informed registration and licensing decisions will be available through this revised format. In this regard, the reformatted DRPs request all of the information requested on the 1996 DRPs. In addition, this revised format will significantly enhance regulators' ability to use the Web CRD for regulatory purposes and allow for more efficient processing of registration-related filings.

Second, the ''other business activities'' DRP on the 1996 Form U–4 is replaced with a separate attachment sheet, which also can be used to provide additional information about residential history or employment and personal history. The other business activity section of Question 20B on the 1996 Form U–4 is renumbered as Question 21. (All subsequent questions are likewise renumbered.) The instructions to Question 21 on the Proposed Form U–4 list the types of information that must be provided on the attachment sheet, and includes all of the information that would have been reported through the DRP.

Third, Sections 11 and 12 on the 1996 Form U–4 and Section 11 on the 1996 Form U–5 have been reformatted to ensure more accurate selection of registration categories. The Proposed Forms use matrices that link SROs and their related registration categories, which will reduce erroneous requests for registrations that are not available for a particular SRO. In addition, the instructions on the Proposed Forms clarify that CRD does not process Investment Adviser Representative and Agent of the Issuer registrations, although the paper Proposed Forms contain boxes for such registration. When an individual views the electronic version of the Proposed Forms on the Web CRD system, the boxes for these registrations will be shaded and the individual will not be allowed to select these options. The boxes for these registrations are included on the paper Proposed Forms solely for the convenience of states that wish to use the paper Proposed Forms for these registrations.

The General Instructions regarding the submission of documents on the 1996 Forms provide that documents are not required to be submitted, but that the applicant may submit them because documents may be requested as part of the review process. The Proposed Forms amend this instruction slightly to conform to the current practice of the states and SROs by stating that, although documents are not generally required to be filed with the Forms, it may be necessary to provide them to clarify or support responses on the Forms.

Finally, the Proposed Forms retain the definitions of ''investigation'' and ''sales practice violations'' that were adopted with the Interim Forms, with slight changes to punctuation. These definitions are more precise than the corresponding definitions used in the 1996 Forms and generally have worked well in practice. In addition, other technical and conforming amendments are listed in the rule filing.[13]

The rule filing also contains the DRP ''pick lists'' that will appear for users making electronic filings of the Proposed Forms.[14] The pick lists will appear for certain discrete fields on the DRPs so that there will be more consistency in the data entered in those fields. For example, on the Customer Complaint DRP, when the firm clicks on the field for ''Litigation Disposition'' the following choices will appear on the screen: Decision for Applicant, Decision for Customer, Denied, Dismissed, Judgment (other than monetary), Monetary Judgment to Applicant, Monetary Judgment to Customer, No Action, Other, Settled, Withdrawn. The individual submitting the electronic form will click on one of these choices to fill in the field, rather than having to manually type in a description of the disposition. Pick lists will also appear for other fields on the electronic Proposed Forms. In all pick lists (except states of residence and types of judgments/liens), a firm may select ''Other'' if none of the choices presented in the pick list is applicable. The pick lists were developed by NASDR, NASAA, the Commission, and others. NASDR expects that refinements to the pick lists will occur in the future, but will not file every change with the Commission because of the inclusion of the ''Other'' option.

Four disclosure questions on the Proposed Forms also are amended. These substantive amendments involve: (1) an expansion of the Form U–4 question eliciting information on settled customer complaints to include those oral complaints involving sales practice allegations that are settled for $10,000 or more; (2) a modification of the Form U–5 question eliciting information on

[11] Securities Exchange Act Release No 39562 (Jan. 20, 1998), 63 FR 3942 (Jan. 27, 1998)(File No. SR–NASD–97–78).

[12] At this meeting, NASAA also approved changes to certain disclosure questions on the Proposed Forms. The NASD submitted the proposed disclosure question changes to its membership for comment. *See* Notice To Members 98–101.

[13] The technical and conforming amendments are listed in Exhibit 2 of the proposed rule change.

[14] The DRP ''Pick Lists'' are contained in Exhibit 3 of the proposed rule change.

customer complaints to make that reporting requirement consistent with the parallel question on the Form U–4 (effectively eliminating the reporting requirement for and permitting the archiving of customer complaints that are over 24 months old and are not otherwise reportable); and (3) an expansion of the reporting requirement on the Form U–5 to include criminal or regulatory actions initiated on the basis of events that occurred while an individual was employed by the firm, even if the actions were initiated after the individual had been terminated.

As NASDR transitions from the current CRD system to Web CRD, there will be a two week period beginning July 31 and ending August 15, 1999 (the ''System Transition Period''), when neither system will be available to process Forms.[15] The System Transition Period is necessary to complete the final data conversions from current CRD to Web CRD and to make final preparations for the deployment of Web CRD. NASDR will not accept the Interim Forms U–4 or U–5 after July 30, 1999.

Although Web CRD will not be operational until August 16, 1999, NASDR is requesting an effective date of August 1, 1999, for Proposed Forms U–4 and U–5. NASDR is requesting this date principally because it will accept paper Proposed Forms U–5 submitted during the two week period beginning August 1, and ending August 15, 1999, provided those Forms U–5 are submitted to report full terminations (*i.e.*, a termination of an individual's registration with all SROs and jurisdictions). In addition, NASDR wants broker-dealers and their associated persons to have an opportunity to familiarize themselves with the new forms prior to the deployment of Web CRD on August 16, 1999. NASDR will review all paper Forms U–5 reporting full terminations that are submitted during the System Transition Period and will provide notice to appropriate regulators/jurisdictions of any such Forms U–5 that contains disclosure information. This interim measure is necessary to protect investors (*e.g.*, to help prevent persons who have been terminated from continuing to engage in securities business) and provide necessary information to regulators.[16]

NASDR will not accept Proposed Form U–4 applications requesting registration/licensing until Web CRD becomes operational on August 16, 1999 (even though they will be ''effective'' August 1, 1999). Firms already have been informed that they must submit new applications for registration before July 30, 1999, or hold them until August 16, 1999.[17] Beginning August 16, 1999, all Forms U–4 and U–5 must be submitted electronically. NASD Regulation has developed a plan to allow registered persons to transfer their registrations during the System Transition Period that is based upon the current Temporary Agent Transfer (''TAT'') program. NASDR has discussed this plan with firms and with the NASAA and expects to issue a Notice To Members on the specifics of the program and on other issues relating to the System Transition Period not later than June 1, 1999.

2. Statutory Basis

NASD Regulation believes that the Proposed Forms are consistent with the provisions of Section 15A(b)(6)[18] of the Act, which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD Regulation believes that the Proposed Forms are consistent with the NASD's authority to adopt appropriate qualifications and registration requirements for persons associated with NASD members or applicants for NASD membership. Article V, Section 2 of the NASD By-Laws authorizes the Board to prescribe the form used by any person who wishes to make application for registration with the NASD. NASD Regulation believes that the Proposed Forms will make the filing of information with CRD easier and more efficient while continuing to provide complete information for use by regulators, SROs, and firms conducting pre-hire checks.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NASD Regulation solicited member comment on the substantive changes to Form U–4 and U–5 disclosure questions in Notice To Members 98–101.[19] NASD Regulation received 15 comments in response to the Notice.[20]

Five commenters were in favor of or had no objection to the proposed rule change requiring the reporting of settlements of oral sales practice complaints and eight were opposed. The Securities Industry Association's (''SIA'') Self-Regulations and Supervisory Practices Committee was among the eight commenters opposing the proposed change. The SIA expressed concern about the proposed change on the basis that: (1) it is inconsistent with the Commission's revised proposed books and records rules, which only require the reporting of customer-initiated complaints that are written; (2) a firm may be more vulnerable to a defamation claim brought by a former employee if there is no writing to substantiate the oral customer complaint that resulted in the settlement of $10,000 or more; and (3) it is currently unclear which types of disputes would give rise to a reportable offense and therefore, some execution adjustments might unintentionally be characterized as a sales practice matter.

While NASDR appreciates the SIA's concern, it disagrees with the SIA's argument that the proposed change requires reporting of oral *complaints.* On the contrary, the proposed change would require the reporting of *settlements* of $10,000 or more of a customer complaint (written or oral) alleging a sales practice violation. NASDR believes that this proposed change is consistent with the Commission's proposed books and

[15] The Commission is in the process of amending the Forms BD and BDW so that these forms will be compatible with the Web CRD system. The Forms BD and BDW will be subject to the same transition period as the Forms U–4 and U–5.

[16] NASDR's Public Disclosure Program, which provides disciplinary and other information about NASD members and their associated persons, will continue to be available to the public and regulators during the System Transition Period. Regulators also will continue to have query access (*i.e.*, read only access) to the current CRD system during the System Transition Period.

[17] For more information concerning the CRD Modernization Update, System Transition Period and electronic filing, use the NASDR's web site at www.nasdr.com and review the *CRD/PD Bulletin*, March 1999, Vol. 6, No. 5.

[18] 15 U.S.C. 78o–3(b)(6).

[19] A copy of the Notice is attached at Exhibit 5 to Amendment No. 1.

[20] The commenters are American Express Financial Advisors, Inc.; AmSouth Investment Services, Inc.; Daniel Barba; Charles Schwab & Co., Inc.; Martin L. Feinberg; William E. Graeff; John G. Kinnard & Co.; Ted S. Meilke; Merrill Lynch; Metropolitan Life Insurance Company; National Association of Investment Professionals; Paine Webber; Raymond James Financial Services, Inc.; Regional Investment Bankers Association; Securities Industry Association Self-Regulation and Supervisory Practices Committee. The comments from persons associated with the John G. Kinnard & Co. are treated as one comment because they are identical. Copies of the letters are attached as Exhibit 6 to Amendment No. 1.

records rules [21] because the question addresses the reporting of the settlement and not the oral complaint. Moreover, the NASD staff believes that settlements of such amounts may be indicative of potential sales practice abuses (regardless of whether the complaint is made orally or in writing) and is therefore consistent with one of the purposes underlying the Commission's proposed rules, which is to assist regulators in determining whether an associated person has engaged or is continuing to engage in securities violations such as abusive sales practices. In addition, as the SIA acknowledges, firms are unlikely to settle a customer sales practice complaint for $10,000 or more without something in writing. Finally, NASDR staff and representatives of NASAA are prepared to issue interpretive guidance that would provide greater clarity in the area of what constitutes a sales practice violation (as opposed, for example, to a disagreement over an execution that does not involve an alleged rule violation) and to provide guidance to firms on procedures they should follow to support the reporting of these items.

Eight commenters addressed the proposed changes to the Form U–5 questions regarding the expanded reporting of regulatory and criminal actions. Under the revised question, firms would be required to report regulatory and criminal actions that were initiated after a registered person has left the firm, if the firm receives actual notice of such actions. The current question requires the reporting of these matters only while the registered person is employed by the firm. Commenters generally expressed concern about having to continually monitor former employees to meet this reporting requirement. Comments therefore requested that ''actual notice'' of the initiation of a criminal or regulatory event be defined through interpretive guidance before or in conjunction with the question change. Three commenters also requested that the proposed change be limited to criminal or regulatory events that are directly related to the former employee's employment with the member and that actual notice be defined as written notice to a principal responsible for making regulatory filings or other appropriate person in the legal or compliance department. Two commenters stated that reporting under these questions should be time limited, *e.g.*, to two years after termination.

[21] Securities Exchange Act Release No. 40518 (Oct. 2, 1998), 63 FR 54404 (Oct 9, 1998).

NASDR agrees that the issuance of interpretive guidance is appropriate. NASDR staff has discussed such interpretive guidance with NASAA and has reached an agreement in principle regarding an interpretation. This interpretation will state that firms are not obligated to report events unless they receive actual notice. In this context, actual notice would mean express notice—That is, a communication by the responsible agency/authority regarding the initiation of a criminal or regulatory action directly to a representative of the firm who is aware of the Form U–5 reporting requirement or should be aware of such requirement because such person has official responsibility for receiving such notice. This interpretation would address a majority of commenters' concerns; however, it does not address the time limit on Form U–5 reporting that was suggested by some commenters. Nevertheless, NASDR staff agrees that the establishment of an outside time limit for reporting on Form U–5 should be explored and has begun discussions with NASAA on this issue.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing including whether the proposed rule 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 20549–0609. 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 elating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–98–96 and should be submitted by May 17, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[22]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–10807 Filed 4–29–99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41327; File No. SR–PCX–99–07]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Its Competing Specialist Program

April 22, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 1999, as amended on April 22, 1993,[3] the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. 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 Exchange is proposing to establish a Competing Specialist Program on the Exchange. The proposal includes specific procedures for Competing Specialists, including procedures for registration, withdrawal and participation in the Competing Specialist Program. Proposed new

[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Michael Pierson, Director, Regulatory Policy, PCX to Michael Walinskas, Deputy Associate Director, Division of Market Regulation, Commission, dated April 22, 1999 (''Amendment No. 1''). Amendment No. 1 made numerous technical and descriptive changes to the filing.

language is italicized: proposed deletions are in brackets.[4]

* * * * *

¶3999 Priority of Bids and Offers

Rule 5.8(c)*(1).* When a bid or offer is clearly established as the first made at a particular price [regardless of the floor], the maker shall be entitled to priority and shall have precedence on the next sale at that price, up to the number of shares of stock or principal amount of bonds specified in the bid or offer irrespective of the number of shares of stock or principal amount of bonds specified in such bid or offer. *Specialist bids and offers must always yield to agency orders being represented at the same price, unless otherwise provided in Exchange Rules.*

A member having priority on the floor with a bid or offer may not increase the size of his bid or offer if objection is made by another member. By placing his order with the specialist he may maintain his priority, but in an amount no greater than originally bid for or offered by him on the Floor. Orders so placed may be accepted as and retain the status of open orders if so designated at the time of placement but shall not gain priority over orders existing in the *Consolidated Limit Order book* [specialist's book] at the time the member secured the Floor with his original bid or offer.

Priority Among Specialists

Rule 5.8(c)(2) If two or more specialists are quoting at the NBBO and there are no agency orders being represented at the same price, the earliest specialist bid or offer at that price will have time priority and will be eligible for an execution first up to its specified size. When no specialists are quoting at the NBBO, a specialist who is representing an order may execute that order in the same security at the NBBO or better.

Commentary

.01—No change.

.02 The term ''NBBO,'' as used in Rule 5.8(c), refers to the national best bid or offer made by an Intermarket Trading System (ITS) participant.

.03 Temporary Rule Applicable to Securities Traded on a Competing Specialist Basis. The Exchange intends to reprogram its P/COAST system to assure that incoming orders will execute first against any matching agency orders in the book and then against any specialist interest at the NBBO. Until that systems change has been effected, Exchange specialists will be required to manually intervene with orders in their custody to assure that quotes for a contra specalist's proprietary account with time priority at the NBBO will be honored. If a specialist receives an order and is aware that another specialist is disseminating a quote for his own account at the NBBO, the specialist receiving the order must provide the other specialist with an execution, up to the specified size. A specialist whose time priority has been violated may demand an execution, up to the quoted size, but must make that demand within two minutes after the trade-through has occurred. Otherwise, the specialist's right to an execution will be deemed to have been waived.

* * * * *

P/COAST

¶ 4153 Pacific Computerized Order Access sysTem

Rule 5.25(a). P/COAST, a securities . . . [No change to remainder of this paragraph]

Member organizations wishing to participate in P/COAST may do so by entering, through direct connections between member firms and the Exchange or through a floor member on the Exchange floor, market and limit orders up to the maximum number of shares in securities traded under P/COAST as shall be fixed by the Exchange from time to time. *The Exchange routes orders to a specialist in one city or the other based on arrangements that the specialists have previously made with firms that send orders to the Exchange. For orders for which neither specialist has made specific arrangements with the firm sending the order, the Exchange will generally assure that the orders are transmitted to the two specialists on an alternating basis (e.g., the first order goes to Specialist A, the next order to Specialist B, the next to Specialist A, etc.) Specialists who accept orders pursuant to these routing procedures are obligated to represent those orders pursuant to Rule 5.29(f).*

* * * * *

Rule 5.25(h). Future Modification of P/COAST. The Exchange intends to reprogram P/COAST to assure that incoming orders will execute first against any matching agency orders with priority and then against any specialist interest with priority. Unfilled portions of such orders will default to the specialist who receives them according to previously-established routing procedures. P/COAST will continue to designate orders for representation by the specialist who has been specified to represent them according to pre-defined routing parameters (such as because the order-sending firm designated the specialist), even if another specialist has priority under Rule 5.8(c). Once P/COAST receives a market or marketable limit order, if another specialist in that security has a bid or offer with priority at the NBBO, the system will ''lock in'' the execution match so that the contra specialist will be guaranteed an execution, unless the receiving specialist executes the order at a price superior to the NBBO. If the receiving specialist moves the order into his or her manual-ex window, then the other specialist in the issue will receive a 30-second ''shadow'' message of the order on their manual-ex windows if they either have a matching limit order or proprietary quote with priority at the NBBO. The contra specialists can interact with the receiving specialist's order by seeking an execution either by sending an electronic order or calling the specialist and vocalizing a bid or offer. For example, assume that there are five PCX specialists (A, B, C, D and E) each bidding $20 for 500 shares for their own accounts. The specialists' quotes have time priority in the following order: A, B, C, D, E. There are no agency orders to buy at 20 on the PCX, and 20 is the national best bid. E's customers sends a market order to the PCX to sell 5,000 shares. The order will be represented by E. The order will be displayed for up to 15 seconds on E's auto-ex window. E may execute the entire order at 20–1/16. However, the system will lock in A's, B's, C's, D's and E's bids, so that if any trades at $20 occur on the PCX, they will be executed in time priority order. If E moves the order into the manual-ex window, then A, B, C and D will receive a 30-second shadow message of the order. Their outstanding bids remain locked in, unless updated so that they no longer match with the original order. However, A, B, C and D can improve the price or size of their proprietary quotes, and these will become locked in, as long as the original order remains in E's manual-ex window. To change the example, if A were bidding $20 for 5,000 shares (with priority, and B, C and D were bidding $19–7/8), E can keep the order by filing it at 20–1/16; otherwise, if the order is filled at $20, A can fill the entire order. If E moves the order into his manual-ex

[4] On August 21, 1998, the Exchange filed an earlier version of this proposal with the Commission. *See* File No. SR–PCX–98–40. Since that time, the Exchange modified the original proposal in several respects and accordingly, the Exchange has determined to withdraw SR–PCX–98–40 and refile it as modified.

window, A will receive a shadow message (but B, C and D will not).

* * * * *

¶ 4271 Suspend Trading

Rule 5.31(b)(1)—No change.

(i)—No change.

(ii) to *all other specialists trading the security* [the specialist on the other Floor] who also shall suspend trading,

(iii)–(iv)—No change.

Rule 5.31(b)(2)—No change.

(i)—No change.

(ii) to *all other specialists trading the security* [the specialist on the other Floor] who also shall suspend trading,

(iii)–(iv)—No change.

Commentary

.01 Competing Specialist in an issue may not suspend trading pursuant to this rule. All suspensions of trading must be coordinated through a regular Specialist

* * * * *

¶ 4319 Procedures for the Competing Specialist Program

Rule 5.35(a) The following are procedures for the Competing Specialist Program.

(1) Only Registered Specialists may act as Competing Specialists. For purposes of this Rule, a ''regular Specialist'' is a Registered Specialist who is not a Competing Specialist.

(2) Applications for Registration as a Competing Specialist must be directed to the Equity Floor Trading Committee (''EFTC'') in writing and must list in order of preference the issue(s) in which the applicant intends to compete. The EFTC will consider the following factors in reviewing an application:

(A) financial capability;

(B) adequacy of staffing on the Floor;

(C) current recent performance evaluations of the applicant;

(D) whether the allocation will result in increased competition in the issue and/or increased order flow to the Exchange; and

(E) objections, if any, of the regular Specialists in the issue as to whether the issue should be traded on a Competing specialist basis.

(3) All applicants must be registered as members with the Exchange and must meet the net capital requirements of SEC Rule 15c3–1 and the capital requirements set forth in Rule 2.2(b) of the Rules of the Exchange, and must conform to all other performance requirements and standards set forth in the Rules of the Exchange. All applicants who control, are controlled by, or are under common control with another person engaged in a securities or related business must have and maintain appropriate information barriers, pursuant to Rule 4.20, as approved by a self-regulatory organization. A Competing Specialist will be subject to all the rules and policies applicable to a regular Specialist, unless otherwise indicated.

(4) All applicant organizations, existing or newly created, must satisfy the Equity Floor Trading Committee that they have sufficient staffing to enable them to fulfill the functions of a specialist in all of the issues in which the applicant will be registered as a Competing Specialist.

(5) Order flow not specifically designated for a Competing Specialist must be routed to a regular Specialist. However, a firm that is affiliated with a Competing Specialist in an issue must designate all PCX order flow to that Competing Specialist in that issue.

(6) In a competitive situation, if the Competing Specialist organization that received approval to compete desires to terminate the competition by requesting that it be relieved of the stock that is the subject of the competition, it must so notify the EFTC at least three (3) business days prior to the desired effective date of such withdrawal, except in those situations when such notice is not practicable.

(7) Any Competing Specialist that withdraws its registration in an issue will be barred from applying to compete in that same issue for a period of ninety (90) days following the effective date of withdrawal.

(8) Notwithstanding the existence of Competing Specialist situations, there is only one Exchange market in a security subject to competition. Competitors must cooperate with the regular Specialists regarding openings and reopenings to ensure that they are unitary.

(9) All limit orders not immediately executable that are sent a Competing Specialist must be entered directly into the Consolidated Limit Order Book and be executed according to the Exchange's rules on time priority.

(10) Competing Specialists in an issue may not suspend trading pursuant to Rule 5.31(b)(1). All suspensions of trading made must be coordinated through a regular Specialist.

(11) The registration of any Competing Specialist may be suspended or terminated by the EFTC upon a determination of any substantial or continued failure by such Competing Specialist to engage in dealing in accordance with the Constitution and Rules of the Exchange.

(12) The Exchange will establish an effective date for competition to commence. Since the Exchange cannot know what the impact of competition will be on its marketplace, it will limit competition during the initial phase as follows:

(A) Any Registered Specialist may apply to become a Competing Specialist in a number of issues, not to exceed ten, that has been previously established for the program by the EFTC and the Board of Governors.

(B) The EFTC and the Board of Governors will determine the total number of Competing Specialists permitted on the Exchange.

(C) The Exchange will conduct a quarterly review of each Competing Specialist on the Exchange. In conducting such reviews, the Exchange may consider, among other things, the factors set forth in subsection (2), above.

(13) Once the program has operated for one year, the EFTC will evaluate it and make a recommendation to the Board of Governors as to whether to continue the program or to modify its terms.

Commentary

.01 If a particular Specialist is not specified by the P/COAST order routing parameters for the receipt of an order, the order must be directed to a regular Specialist. However, if a routing firm is affiliated with a Competing Specialist, that firm may not route orders to another specialist, but must route them to that member firms's affiliated specialist, thereby preventing member firms affiliated with a specialist from routing non-profitable orders to another specialist when market conditions are unfavorable.

.02 All limit orders must be represented and executed in accordance with the rules on time priority on the Exchange. Incoming orders are first executed against any contra-side limit orders on the Exchange. All market and marketable limit orders are exposed to the Specialist for possible price improvement before execution. Specialists may execute their designated order flow unless there is contra-side limit order eligible for executive on the Exchange or another Specialist has a bid or offer with time priority at the NBBO.

* * * * *

[¶4319 Securities Traded on a Competing Specialist Basis

RULE 5.35(a). The Board of Governors may from time to time designate securities to be traded on a competing specialist basis. Securities traded on a competing specialist basis will be traded in accordance with the provisions of Rule 5.27 through 5.38.]

[¶4321 Competing Specialist—Definition and Procedure for Appointment

RULE 5.35(b). A competing specialist is a member who is registered with the Exchange for the purpose of making transactions as dealer-specialist on the floor of the Exchange, in securities traded on a competing specialist basis, in accordance with the Rules of the Exchange. Appointment as a competing specialist shall be made by the Floor Trading Committee pursuant to an application which shall include such information as is required by the Floor Trading Committee. In making such appointments the Floor Trading Committee shall satisfy itself as to the applicant's ability to perform the duties of a competing specialist and the applicant's financial resources. The Floor Trading Committee shall not appoint any person as a competing specialist in a security if such person is associated with a member firm with which the book broker in such security is also associated. The registration of any person as a competing specialist may be suspended or terminated by the Floor Trading Committee upon a determination of any substantial or continued failure by such competing specialist to engage in dealings in accordance with the Constitution and Rules of the Exchange.]

[¶4323 Book Broker—Definition and Procedure for Appointment

RULE 5.35(c). A book broker is a member of the Exchange who has been selected by the Floor Trading Committee to operate the book of limit orders and to execute odd lot orders and COMEX routed orders in securities traded on the Exchange on a competing specialist basis. For each security traded on the Exchange on a competing specialist basis, the Floor Trading Committee may appoint one book broker on the Los Angeles floor of the Exchange and one book broker on the San Francisco floor of the Exchange. Application for appointment as a book broker shall be made on such form, and shall include such information, as is prescribed by the Floor Trading Committee. The appointment of any person as book broker may be suspended or terminated by the Floor Trading Committee upon a determination that, in its judgment, the interest of a fair and orderly market are best served by such action.]

[¶4325 Responsibilty of Book Broker

RULE 5.35(d). A book broker shall accept any limited order from members for placement in the book, including limited orders placed by members on a principal basis. All principal orders must be so marked. Public orders in the book (agency orders) shall at all times have priority and precedence over principal orders in the book at the same price of at inferior prices.]

[¶4327 Book Broker Prohibited from Engaging in Principal Transactions

RULE 5.35(e).

(1). A book broker is prohibited from executing transactions for his own account or for the account of his firm. The prohibition of this Rule 5.35(e), however, shall not apply to odd lot transactions effected to fill odd lot orders, or to round lot transactions to decrease a position acquired as a result of the book broker's odd lot transactions or error account transactions.

(2). When a book broker acting as odd lot dealer determines to sell a round lot, he shall give the order a competing specialist or another member not associated with him for execution, if the transaction would establish the price for the execution of odd lot orders the book broker holds and make the book broker a buyer on balance.

(3). When a book broker acting as odd lot dealer determines to buy a round lot, he shall give the order to a competing specialist or another member not associated with him for execution, if the transaction would establish the price for the execution of odd lot orders the book broker holds and made the book broker a seller on balance.

(4). If unusual circumstances exist, such as unusual activity in a stock with a corresponding increase in the number of orders being received and a need for effecting an unusual number of off-setting round lot transactions, the off-setting orders may, with the approval of a Floor official, despite the provisions of subparagraphs (2) and (3) above, be handled by the book broker acting as odd lot dealer. A record shall be kept of the circumstances.

(5). The approval of a Floor Official is required for transactions described in paragraphs (2) and (3) when a competing specialist acts as a principal on the opposite side of the transaction and such transaction is at a price more than one-eight point away from the previous sale.

(6). A book broker acting as odd lot dealer may not, without the approval of a Floor Official, effect a transaction or cause a transaction to be effected for the account of the book broker which would effect any odd lot stop order held by such book broker.]

[¶4329 Maintaining Fair, Orderly, and Competitive Market

RULE 5.35(f). At the request of a floor broker who holds an order for purchase or sale of a security trading on a competing specialist basis, or whenever in the book broker's opinion the interests of a fair and orderly and competitive market are best served by such action, a book broker shall call upon those competing specialists appointed to act as such in that security or as many of such competing specialists as deemed necessary by the book broker to make bids and/or offers or to narrow spreads in existing bids and offers or to take other appropriate action, so as to contribute to meeting the standards set forth in Rule 5.35(g). Whenever called upon by a book broker in accordance with Rule 5.35(f), a competing specialist shall take reasonable action under the circumstances to respond to the book broker's call by providing a market or improving upon the market. To the extent practicable, and in a form prescribed by the Exchange, the book broker will shall keep a record of the responses of competing specialists that provide or improve upon a market commensurate with these standards. If satisfactory responses are not forthcoming promptly, the book broker shall make a record of this fact. Copies of all records kept in accordance with this Section shall be forwarded to the Floor Trading Committee and the Division of Member Organizations. In addition, in the interests of maintaining a fair and orderly and competitive market, a request for a quotation may be made at any time of any competing specialist by Exchange personnel for the purposes of dissemination over any quote reporting system.

Commentary

.01 Maximum Spreads.

Without limiting the standards expressed in Rules 5.35(f) and 5.35(g) a competing specialist, in the course of maintaining a fair and orderly market, is expected to conform to the following specific standards relating to maximum spreads in the following securities.

(a) BankAmerica Corporation Common Stock-

Bidding and/or offering so as to create differences of no more than 1/2 of $1; provided that, the book broker with the consent of a Floor Official, or the Exchange, because of unusual market conditions, may determine to increase or decrease the maximum spreads specified above.

The stated maximum spread is not intended as a limit on the book broker's

power to call for narrower spreads between bids and offers. Depending upon market conditions, a book broker may well call for bids and/or offers that provide narrower spreads than those stated, and competing specialists may be considered to be in derogation of their responsibilities under Rules 5.35(f) and 5.35(g) if they do not make bids and/or offers that provide narrower spreads.]

[¶ 4331 Responsibility of Competing Specialist

RULE 5.35(g). Transactions of a competing specialist should constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and no competing specialist should enter into transactions or make bids or offers that are inconsistent with such a course of dealings. With respect to securities in which he is registered as a competing specialist, a competing specialist shall have a continuous obligation to engage, to a reasonable degree under the existing circumstances, in dealings for his own account when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of and the demand for a particular security, or a temporary distortion of the price relationships between the Exchange and other markets.]

[¶ 4333 Acting as Competing Specialist and Floor Broker in Same Day

RULE 5.35(h). A competing specialist is prohibited from acting as a floor broker and a competing specialist on the same trading day in any security in which the competing specialist is so registered.]

[¶ 4335 Applicability of Other Exchange Rules

RULE 5.35(i). The following Rules of the Exchange relating to Dealings upon the Exchange shall apply to book brokers: Rule 1.1, Rule 4.2, 4.3, Rule 5.1–5.16, 5.20–5.23, 5.27–5.38 (except 5.30(e), 5.32(a), 5.32(b), 5.33(g), and 5.34(b)) which shall not apply to book brokers, and Rule 4.4–4.13, and Rule 5.18, 5.25. The following Rules of the Exchange relating to Dealings Upon the Exchange shall apply to competing specialists: Rules 1.1; 4.2–4.13; 5.1–5.9; 5.11–5.16; 5.18; 5.20–5.23; 5.25; 5.27; 5.28(b), (c), (d), (f); 5.29(e); 5.30(a), (d); 5.33(a), (d), (e), (f); 5.35(a); 5.36; and 5.37. All other Exchange Rules shall be applicable to transactions on the Exchange in securities traded on a competing specialist basis and to the activities of book brokers and competing specialists unless the context clearly indicates otherwise.]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B. and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

a. Current Practices

The Exchange currently operates two equity trading floors, one in Los Angeles and one in San Francisco. For most of the equity securities traded on the Exchange, there are two Registered Specialists [5] continuously making two-sided markets. An order sent to the Exchange is routed to a specialist in one city or the other based on arrangements that the specialist has previously made. If no specific arrangements have been made, the Exchange will generally assure that orders are transmitted to the two specialists on an alternating bases (*e.g.*, the first order goes to Specialist A, the next order goes to Specialist B, the next to Specialist A, and so on).

The Exchange disseminates a single two-sided quote on the Consolidated Quote System (''CQS'') in each security traded on the PCX, based on the combined best bids and offers from each city. If the Los Angeles specialist is disseminating a bid of $30 for 5,000 shares of XYZ and the San Francisco specialist is disseminating a bid of $30 for 3,000 shares of XYZ, then the Exchange will disseminate a combined bid of $30 for 8,000 shares of XYZ.

The Exchange developed its Consolidated Limit Order Book (''CLOB'') in August 1998 for orders that are entered into the Exchange's P/COAST trading system.[6] Incoming orders other than market and marketable limit orders are maintained in the CLOB and are represented by the specialist designated to represent them. Incoming market and marketable limit orders are executed against orders in the CLOB based on price and time priority. Before any orders are executed, P/COAST will display them to the specialist designated to receive the order for up to 15 seconds to provide an opportunity for price improvement.[7] If a specialist manually executes a limit order that does not have priority, P/COAST will generate a message that a priority violation has been committed so that corrective action may be taken. In addition, the Exchange's Surveillance Department will receive a report of the priority violation.

b. Proposed Competing Specialist Program

The purpose of the proposed rule change is to expand the Exchange's two-specialist system for equity securities by establishing a Competing Specialist Program on the Exchange. Under the proposal, Competing Specialists will be permitted to compete with Regular Specialists on the floor of the Exchange. Like Regular Specialists, Competing Specialists in a security will be required to make a two-sided market and will be subject to the rights and responsibilities of Regular Specialist, subject to certain exceptions discussed below.

The Exchange's P/COAST system will electronically route each incoming order for an equity security to a Regular Specialist or a Competing Specialist in that security based on instructions of the firm submitting the order. As specified in the Exchange's proposed amendment to Rule 5.25(a), specialists who accept orders via P/COAST will be obligated to represent those orders pursuant to PCX Rule 5.29(f), which states that a specialist is repsonsible for the execution of all orders it has accepted.

[5] For purposes of this rule filing, a ''Registered Specialist'' is a PCX member who has been appointed and registered pursuant to Rule 5.27 to act as a Specialist on the Exchange. A ''Competing Specialist'' is a Registered Specialist who has been approved by the Equity Floor Trading Committee to trade securities on a Competing Specialist basis pursuant to proposed PCX Rule 5.35. A ''Regular Specialist'' is a Registered Specialist who is not a Competing Specialist.

[6] *See generally* File No. SR–PCX–99–06. The Commission notes that the proposal to implement the CLOB is still pending with the Commission.

P/COAST, the ''Pacific Computerized Order Access SysTem,'' is the Exchange's communication, order routing and execution system for equity securities. *See* PCX Rule 5.25(a)–(f).

[7] When P/COAST displays an order for possible price improvement, the order will appear on the recipient specialist's automatic execution window. If another specialist in the issue is simultaneously representing an order in the CLOB that is priced at the national best bid or offer made by an Intermarket Trading System (''ITS'') participant, or ''NBBO,'' that specialist will see a ''shadow'' record of the order being represented by the other specialist and can interact with that order by calling the other specialist and vocalizing a bid or offer.

Specialists on the Exchange will be required to execute all orders received—whether via the P/COAST system or from a floor broker—in accordance with the Exchange's rules on priority. Accordingly, as discussed below, a specialist cannot execute incoming market and marketable limit orders against its own account until after all limit orders priced at or better than the NBBO have been executed, and all specialist quotes with time priority at the NBBO have been filled.

In a few respects, the Regular Specialists in a security will have rights and obligations not shared by Competing Specialists. Regular Specailists will continue to be responsible for coordinating openings and reopenings to ensure they are unitary. Also, Computing Specialists who wish to use the ITS to send preopening indications of interest to the primary market in a security must send those preopening indications through a Regular Specialist (but during trading hours Competing Specialists will be able to send outbound ITS commitments and execute incoming ITS commitments independently and without the need for a Regular Specialist to clear the activity).

Like Regular Specialists, Competing Specialists will be able to enter two-sided quotes into the P/COAST system. The Exchange will continue to disseminate a single CQS quote.

The Exchange believes that having a Competing Specialist Program will result in greater competition, tighter bid-ask spreads, and greater depth and liquidity on the PCX. As a result, the Exchange expects to improve its competitive posture in the industry and expects that members' customers will send more order flow to the PCX for execution than they currently send.

c. Priority Rule Changes

The Exchange is also proposing to modify its Priority Rule for equity securities, Rule 5.8(c). The existing rule, which will be renumbered as Rule 5.8(c)(1), will be amended to provide that specialist bids or offers must always yield to agency orders being represented at the same price, unless otherwise provided for by rule. The exceptions to this general principle would include odd lot oders, orders that provide for settlement other than in three days (non-regular way) and conditional orders (such as all-or-none orders, stop orders and market-on-close orders).

Proposed Rule 5.8(c)(2) will provide that if two or more specialists are quoting at the NBBO and there are no agency orders being represented at the same price, the earliest bid or offer at that price will have time priority and will be eligible for execution first up to its specified size. It will further provide that when no specialists are quoting at the NBBO, the specialist who is representing an order may execute the order in the same security at the NBBO or better. The Exchange is also proposing to add a new Commentary .02 to the rule, which will provide that the term ''NBBO,'' as used in Rule 5,8(c), will refer to the national best bid or offer made by an ITS participant.

The provisions of Rules 5.8(c)(1) and 5.8(c)(2) will apply to trading in all securities in which there is more than one specialist on the PCX. This incudes all securities in which two Regular Specialists make a market, whether or not one or more Competing Specialist trades the security.[8]

If a particular specialist is not specified within the P/COAST routing parameters for the receipt of an order (such as because the specialist has not made prior arrangements with an order-sending firm), the order will be directed to a Regular Specialist. However, if a routing firm is affiliated with a Competing Specialist, that firm may not route orders to another specialist, but must route them to the member firm's affiliated specialist, thereby preventing member firms affiliated with a specialist from routing non-profitable orders to another specialist when market conditions are unfavorable.[9]

Under the Competing Specialist Program, all limit orders are required to be represented and executed according to the rules on time priority on the Exchange.[10] All market and marketable limit orders will be exposed to the specialist representing the order for possible price improvement before execution. Specialists may execute their designated order flow unless there is a matching limit order with priority being represented on the Exchange or another specialist has a superior quote (with time priority) at the NBBO.

[8] For example, assume that the NBBO is 20 bid to 20⅛ offered, and Specialist A is bidding 19¾, while Specialist B is bidding 19½. A market order to sell may be directed to specialist B for execution, even though Specialist A has a better bid, because neither specialist is bidding at the NBBO. Under the Competing Specialist Program, Specialist B would execute the order at 20 (the national best bid) or better. If Specialist A has been bidding 20 (the national best bid), Specialist A would have had priority to execute the order, even though it was directed to Specialist B.

[9] As noted above, however, Rule 5.8(c)(2) will provide that if another Specialist is quoting at the NBBO and clearly has established priority on the PCX floors, then that Specialist will have priority to fill the order despite the fact that the order was designated for the affiliated Competing Specialist.

[10] Time priority is required to be maintained among all orders received by the PCX.

d. Order Handling

(1) Routing Mechanism

The Exchange proposes to add new Rule 5.25(h) to reflect that the Exchange intends to reprogram P/COAST to assure that incoming orders will execute first against any matching agency orders with priority and then against any specialist interest with priority. Unfilled portions of such orders will default to the specialist who receives them according to previously established routing procedures.

P/COAST will continue to designate orders for representation by the specialist who has been specified to represent them according to pre-defined routing parameters (such as because the order-sending firm designated the specialist), even if another specialist has priority under Rule 5.8(c)(2). Once P/COAST receives a market or marketable limit order, if another specialist in that security has a bid or offer with priority at the NBBO, the system will ''lock in'' the execution match so that the contra specialist will be guaranteed an execution unless the receiving specialist executes the order at a price superior to the NBBO. If the receiving specialist moves the order into his or her manual-ex window, then the other specialists in the issue will receive a 30-second ''shadow'' message of the order on their manual-ex windows if they either have a matching limit order or proprietary quote with priority at the NBBO. The contra specialists can interact with the receiving specialist's order by seeking an execution either by sending an electronic order or calling the specialist and vocalizing a bid or offer.

For example, assume that there are five PCX specialists (A, B, C, D and E) each bidding $20 for 500 shares for their own accounts. The specialists' quotes have time priority in the following order: A, B, C, D, E. There are no agency orders to buy at 20 on the PCX, and 20 is the national best bid. E's customer sends a market order to the PCX to sell 5,000 shares. The order will be represented by E. The order will be displayed for up to 15 seconds on E's auto-ex window. E may execute the entire order if E improves the price to 20$\frac{1}{16}$. However, the system will lock in A's, B's, C's, D's and E's bids, so that if any trades at $20 occur on the PCX, they will be executed in time priority order.

If E moves the order into the manual-ex window, then A, B, C and D will receive a 30-second shadow message of the order. Their outstanding bids remain locked in, unless updated so that they

no longer match with the original order. However, A, B, C and D can improve the price or size of their proprietary quotes, and these improvements in price or size will become locked in, as long as the original order remains in E's manual-ex window.

To change the example, if A were bidding $20 for 5,000 shares (with priority, and B, C and D were bidding $19⅞), E can keep the order by filling it at 20$^{1}/_{16}$; otherwise, if the order is filled at $20, a can fill the entire order. If E moves the order into his manual-ex window, A will receive a shadow message (but B, C and D will not).

The Exchange believes that this proposed modification to P/COAST will better assure that incoming orders will be executed against PCX bids and offers in priority sequence because specialists bids and offers at the NBBO will be ''locked in'' systemically. The proposal will encourage quote competition among specialists. If specialists are quoting at the NBBO with time priority, they will be eligible to trade with any incoming order, regardless of who is receiving it. The proposal will encourage price improvement because the Competing Specialists will be required to quote a letter prices in order to retain the order flow received by the Exchange.

The Exchange has considered changing P/COAST to route orders to the specialist with priority at the NBBO, but has concluded that splitting orders up into multiple partial orders or routing orders to various specialists other than the receiving specialist would not be in the customers' best interest. The Exchange further believes that implementing such changes would place the Exchange at a competitive disadvantage. The Exchange represents that its customers are placing a higher premium on turnaround time for executions of their orders. With the significant growth of the Exchange's base of on-line customers, the PCX anticipates that speed of execution will continue to be a high priority for PCX customers. The PCX contends that it is imperative that the Exchange devise an order handling method that facilities quick executions, avoids unnecessary errors from occurring, and does not place PCX specialists at a competitive disadvantage to other exchanges and alternative trading systems.

(2) Interim Methodology

The Exchange proposes to add Commentary .03 to Rule 5.8(c), to reflect that until the Exchange has reprogrammed P/COAST to implement order routing for the competing specialist program, as described in proposed Rule 5.25(h), specialists will need to rely on manual procedures to assure that any quotes for a specialist's proprietary account with time priority at the NBBO will be honored. In particular, if a specialist receives an order an is aware that another specialist is disseminating a quote for his own account at the NBBO, the specialist receiving the order will be required to provide the other specialist with an execution, up to the specified size.[11]

The Exchange believes that in some cases, due to system limitations, a specialist will be unable to know, at the time of receipt of an order, whether a contra specialist has time priority at the same price being quoted by the order specialist. As a result, the Exchange is proposing to adopt a new Commentary .03 to Rule 5.8(c), stating that when two specialists are quoting for their own accounts at the NBBO, a specialist whose time priority has been violated may demand an execution, up to the quoted size, but must make that demand within two minutes after thee trade-through has occurred.[12] Otherwise, the specialist's right to an execution will be deemed to have been waived.[13] Having a two-minute window will assure that members will not request relief well after the market has moved and a reasonable time to research a trade has passed. It will also serve to ensure that PCX specialists trading the same issue will keep each other apprised of bids and offers for their own accounts that they intend to invoke when competing for the same order flow.

e. Procedures for Competing Specialist Program

The Exchange is proposing to adopt new Rule 5.35(a) for the Competing Specialist Program.[14] Specifically, proposed Rule 5.35(a)(1) will provide that only Registered Specialists may act as Competing Specialist. This requirements is intended to assure that Competing Specialists meet the same standards as Registered Specialists as required under PCX Rule 5.27. The rule also clarifies that the term ''regular Specialists'' is a Registered Specialist who is not a Competing Specialist.

Proposed Rule 5.35(a)(2) states that applications for Registration as a Competing Specialist must be directed to the Equity Floor Trading Committee (''EFTC'') in writing and must list in order of preference the issue(s) in which the applicant intends to compete. The EFTC will consider the following factors in reviewing an application: (a) financial capability; (b) adequacy of staffing on the Floor; (c) current and recent performance evaluations of the applicant; (d) whether the allocation will result in increased competition in the issue and/or increased order flow to the Exchange; and (e) objections, if any, of the Regular Specialists in the issue as to whether the issue should be traded on a competing specialist basis.[15]

Proposed Rule 5.35(a)(3) states that all applicants must be registered as members with the Exchange, must meet the net capital requirements of SEC Rule 15c3–1 and the capital requirements of PCX Rule 2.2(b), and must conform to all other performance requirements and standards set forth in the Rules of the Exchange. All applicants who control, are controlled by, or are under common control with another person engaged in a securities or related business will be required to have and maintain appropriate information barriers as approved by a self-regulatory organization. A Competing Specialist will be subject to to all the rules and policies applicable to a Regular Specialist, unless otherwise indicated.

Proposed Rule 5.35(a)(4) states that all applicant organizations, existing or newly created, must satisfy the EFTC that they have sufficient staffing to enable them to fulfill the functions of a specialist in all of its issues in which the applicant will be registered as a Competing Specialist.

Proposed Rule 5.35(a)(5) states that order flow are specially designated for a Competing Specialist must be routed to a Regular Specialist. However, a firm that is affiliated with a Competing Specialist in an issue must designate all PCX order flow to that Competing Specialist in that issue. Commentary .01 to proposed Rule 5.35 explains that this

[11] For example, if Specialist A is bidding $75 (the nations best bid, with price and time priority) for 100 shares for his own account, and Specialist B receives a market order to sell 5,000 shares, Specialist B will be required to execute 100 shares of that order for Specialist A's account by entering Specialist A's post number as the contra side of the trade. Specialist A will then receive a report of the executed trade through P/COAST.

[12] The Exchange intends to codify this provision as a temporary rule that will expire upon the implementation of the P/COAST changes discussed above. The Exchange anticipates that from the time of commencement of programming, these system changes will take approximately one year to implement.

[13] A similar provision exists in the ITS Rules for orders executed out of price priority (but not for orders out of time priority at the same price). *See, e.g.,* PCX Rule 5.21(b).

[14] Most of these procedures are similar to those set forth in the Boston Stock Exchange (''BSE'') Rules, Chapter XV, Section 18, which were approved in Exchange Act Release No. 37045 (March 29, 1996), 61 FR 15318 (April 5, 1996).

[15] PCX Rule 11 provides a right of appeal for members or member organizations aggrieved by a decision of the EFTC regarding the competing specialist program.

is designed to prevent member firms affiliated from a Competing Specialist from routing non-profitable orders to another (unaffiliated) specialist when market conditions are unfavorable.

Proposed Rule 5.35(a)(6) states that if the Competing Specialist organization that received approval to compete desires to terminate the competition by requesting that it be relieved of the stock in which it is competing, it must so notify the EFTC as least three business days prior to the desired effective date of such withdrawal, except when such notice is not practicable.

Proposed Rule 5.35(a)(7) states that any Competing Specialist that withdraws its registration in an issue will be barred from applying to compete in that same issue for a period of 90 days following the effective date of withdrawal.

Proposed Rule 5.35(a)(8) states that Competing Specialists must cooperate with the Regular Specialists regarding openings and reopenings to ensure that they are unitary. In this regard, the procedures note that, notwithstanding the existence of Competing Specialist situations, there is only one Exchange market in a security subject to competition, meaning that the Exchange will disseminate a single quote onto the CQS.

Proposed Rule 5.35(a)(9) states that all limit orders not immediately executable that are sent to a Competing Specialist must be entered directly into the CLOB and be executed according to the Exchange's rules on time priority. Commentary .02 to proposed Rule 5.35 further states that incoming orders are first executed against any matching limit orders on the Exchange, that all market and marketable limit orders are exposed to the specialist for possible price improvement before execution, and that specialists may execute their designated order flow unless there is a matching limit order eligible for execution on the Exchange or another specialist has a bid or offer with time priority at the NBBO.

Proposed Rule 5.35(a)(10) states that all suspensions of trading must be coordinated through a Regular Specialist.[16]

Proposed Rule 5.35(a)(11) states that the registration of any Competing Specialist may be suspended or terminated by the EFTC upon a determination of any substantial or continued failure by that Competing Specialist to engage in dealing in accordance with the Constitution and Rules of the Exchange.

Proposed Rule 5.35(a)(12) states that the Exchange will establish an effective date for competition to commence, but since the Exchange cannot know what the impact of competition will be on its marketplace, it will limit competition during the initial phase as follows: (a) any Registered Specialist may apply to become a Competing Specialist in a number of issues, not to exceed ten, that has been previously established for the program by the EFTC and the Board of Governors: (b) the EFTC and the Board of Governors will determine the total number of Competing Specialists permitted on the Exchange; and (c) the Exchange will conduct a quarterly review of each Competing Specialist on the Exchange, and in conducting such reviews, the Exchange may consider, among other things, the five factors the EFTC considers when reviewing an application for registration under the Competing Specialist Program.[17]

Proposed Rule 5.35(a)(13) states that once the program has operated for one year, the EFTC will evaluate it and made a recommendation to the Board of Governors as to whether to continue the program or to modify its terms.

f. Trading Halts and Circuit Breakers

PCX Rule 5.31(b)(1) currently provides, in part, that when the flow of orders in a security traded on both Floors does not allow either specialist to maintain an orderly market in such security, either specialist may suspend trading, and the specialist who suspends trading must notify the specialist on the other Floor who shall also suspend trading. Rule 5.31(b)(2) contains similar provisions for securities traded only on one Floor. The Exchange is proposing to amend both rules to require notification of all specialists trading the security. The Exchange also is proposing to add a Commentary to this Rule stating that Competing Specialists in an issue may not suspend trading pursuant to this Rule, and further that all suspensions of trading must be coordinated through a Regular Specialist. The Exchange further proposes to add a similar provision to the Procedures for the Competing Specialist Program, as new Rule 5.35(a)(11). Finally, the Exchange is also proposing to extend its rules on circuit breakers, previously approved by the Commission,[18] to Competing Specialists.

g. Elimination of Current Rules on Competing Specialists

In 1976, the Exchange adopted its existing rules on Competing Specialists (PCX Rules 5.35(a)—(i)). The Exchange is proposing to eliminate those rules and replace them with provisions set forth in this proposal, which the Exchange believes to be consistent, in general, with the rules of the BSE on Competing Specialists.[19] The Exchange has not applied its existing rules on Competing Specialists since approximately 1977.

(2) Basis

The proposed rule change is consistent with Section 6(b) of the Act,[20] in general, and furthers the objectives of Section 6(b)(5),[21] in particular, in that it is designed to promote just and equitable principles of trade, to reflect the mechanism of a free and open market and a national market system, and to protect investors and the public interest. Specifically, the Exchange believes that the proposal, when implemented, will result in greater competition, tighter bid-ask spreads, and greater depth and liquidity on the PCX, and thereby, will promote those three objectives. The Exchange further believes that the proposed rule change and will serve to permit the Exchange to compete more effectively for order flow, and thereby will serve to promote greater industry-wide competition, and help to perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

[16] Trading halts are discussed in more detail *infra*.

[17] The purpose of these reviews is to assure that the new program will be operating appropriately, particularly in its early phase, so that any problems can be identified and corrected. The Exchange anticipates that its staff will provide the EFTC with objective data for the EFTC's review and that floor members and others will have an opportunity to raise their concerns, if any, in the context of these reviews.

[18] *See* PCX Rule 4.22; Securities Exchange Act Release No. 40418 (September 9, 1998), 63 FR 49624 (September 16, 1998).

[19] *See* Chapter XV, Section 18, of the BSE Rules; Securities Exchange Act Release No. 37045, note 14, *supra*.

[20] 15 U.S.C. 78f(b)

[21] 15 U.S.C. 78f(b)(5)

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will—

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, 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, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–99–07 and should be submitted by June 25, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–10806 Filed 4–29–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGED COMMISSION

[Release No. 34–41323; File No. SR–PHLX–99–13]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to an Extension of a Pilot Program for a System Enhancement to the X.Station Electronic Book on the Options Floor

April 22, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 22, 1999,[3] the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule changed from interested persons.

I. *Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule*

Phlx proposes to extend its pilot program for a system enhancement to the X.Station electronic book on the options floor for an additional six months, until October 23, 1999.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

1. Purpose

On May 7, 1998, the Commission approved, on a pilot basis, the implementation of the X.Station enhancement to the electronic book on the options floor of the Phlx.[4] The pilot was extended for an additional six months, until April 23, 1999.[5] As described in Rule 1080, Commentary .02, the electronic order book is automated mechanism for specialists to hold and display orders based on price/priority time. The X.Station[6] provides certain improvements such as expedited non-AUTO–X order execution and expedited cancel replacement processing.

AUTO-X is the automatic execution feature of the Automated Options Market (''AUTOM'') System, the electronic order delivery and routing system for options orders. Previously, AUTO–X orders were executed against a ''shadow account'' for which the specialist was ultimately responsible. The execution was immediately reported back to the sending firm, and then, specialist manually input the contra-side interest representing the booked order that became due as a result of the AUTO–X trade.

At this time, the Exchange proposes to extend the X.Station pilot for an additional six months, until October 23, 1999. The pilot program is a system enhancement to the X.Station electronic book that match incoming AUTO–X orders with booked orders. The enhancement allows the specialist to match two participants directly, without the specialist participating in the trade, by dropping the order to manual status. The match is not automatic, as the specialist must ensure that crowd participation under current parity/priority rules in not due before executing the trade; thus, the specialist must ''select'' the orders to execute the trade. Because the AUTO–X order has dropped to manual, the sending firm will not receive and execution report until the specialist selects and executes the trade.

The enhancement affords specialists relief from the manual burden of inserting trade participant and clearing information by writing an order ticket for the booked order. An extension of the proposed enhancement should continue to reduce the amount of paper processed on the options floor; this in turn, should continue to reduce handling and processing time, including the likelihood of errors, thereby facilitating more prompt and accurate trade reporting.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The filing was submitted April 14, 1999, however it was not accurate. Therefore, the Phlx consented to changes to the filing to make it accurate on April 22, 1999.

[4] Securities Exchange Act Release No. 39972 (May 7, 1998), 63 FR 26666 (May 13, 1998).

[5] Securities Exchange Act Release No. 40625 (November 2, 1998), 63 FR 60435 (November 9, 1998).

[6] The X.Station has been deployed floor wide.

2. Statutory Basis

Phlx believes that the proposed rule change is consistent with Section 6(b)[7] of the Act in general and furthers the objectives of Section 6(b)(5)[8] in particular, because it fosters cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest by enhancing efficiency through automation in the options market.[9]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(5) thereunder.[11] The proposal effects a change in an existing order-entry or trading system of a self-regulatory organization that (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not have the effect of limiting the access to or availability of the system. At any time within 60 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 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–PHLX–99–13 and should be submitted by May 21, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–10805 Filed 4–29–99; 8:45 am]

BILLING CODE 8010–01–M

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] In reviewing the proposed rule change, the Commission considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(2).

[12] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3165]

State of Louisiana (Amendment #2)

In accordance with a notice received from the Federal Emergency Management Agency dated April 16, 1999, the above-numbered Declaration is hereby amended to include Claiborne and DeSoto Parishes in the State of Louisiana as a disaster area as a result of damages caused by severe storms, tornadoes, and flooding that occurred on April 3–7, 1999.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties or parishes may be filed until the specified date at the previously designated location: Lincoln, Natchitoches, Sabine, and Union Parishes in Louisiana; Columbia and Union Counties in Arkansas; and Shelby County, Texas.

All other information remains the same, i.e., the deadline for filing applications for physical damage is June 7, 1999, and for economic injury the deadline is January 7, 2000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 19, 1999.

Herbert L. Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 99–10789 Filed 4–29–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3170]

Commonwealth of Massachusetts (and a Contiguous County in the State of New Hampshire)

Middlesex County and the contiguous Counties of Essex, Norfolk, Suffolk, and Worcester in Massachusetts, and Hillsborough County, New Hampshire constitute a disaster area as a result of damages caused by a fire that occurred on April 9–10, 1999 in the Town of Belmont. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on June 18, 1999 and for economic injury until the close of business on January 19, 2000 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Boulevard South, 3rd Floor, Niagara Falls, NY 14303.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.875
Homeowners without credit available elsewhere	3.437
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.000
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The numbers assigned for physical damages are 317005 for Massachusetts and 317105 for New Hampshire. For economic injury the numbers are 9C5300 for Massachusetts and 9C5400 for New Hampshire.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 19, 1999.

Aida Alvarez,

Administrator.

[FR Doc. 99–10788 Filed 4–29–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3172]

State of Mississippi

Jones County and the contiguous counties of Covington, Forrest, Jasper, Perry, Smith, and Wayne in the State of Mississippi constitute a disaster area as a result of damages caused by severe storms and tornadoes that occurred on April 14, 1999. Applications for loans for physical damages as a result of this disaster may be filed until the close of business on June 21, 1999 and for economic injury until the close of business on January 20, 2000 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.875
Homeowners without credit available elsewhere	3.437
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.000
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The numbers assigned to this disaster are 317212 for physical damage and 9C6200 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 20, 1999.

Aida Alvarez,

Administrator.

[FR Doc. 99–10790 Filed 4–29–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3175]

State of Texas

Polk County and the contiguous Counties of Angelina, Hardin, Liberty, San Jacinto, Trinity, and Tyler in the State of Texas constitute a disaster area as a result of damages caused by severe storms and flooding that occurred on April 3, 1999. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on June 21, 1999 and for economic injury until the close of business on Jan. 21, 2000 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.375
Homeowners without credit available elsewhere	3.188
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.000
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The numbers assigned to this disaster are 317506 for physical damage and 9C6500 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 21, 1999.

Aida Alvarez,

Administrator.

[FR Doc. 99–10787 Filed 4–29–99; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Social Security Ruling, SSR 99–2p.; Titles II and XVI: Evaluating Cases Involving Chronic Fatigue Syndrome (CFS)

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling.

SUMMARY: In accordance with 20 CFR 402.35(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling, SSR 99–2p. This Ruling clarifies disability policy for the evaluation and adjudication of disability claims invo1ving Chronic Fatigue Syndrome (CFS). This Ruling explains that, when it is accompanied by appropriate medical signs or laboratory findings, CFS is a medically determinable impairment that can be the basis for a finding of ''disability.'' This Ruling ensures that all adjudicators will use the same policies and procedures in evaluating disability claims involving CFS, and provides a consolidated statement of these policies and procedures.

EFFECTIVE DATE: April 30, 1999.

FOR FURTHER INFORMATION CONTACT: Carolyn Kiefer, Office of Disability, Division of Medical and Vocational Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–9104.

SUPPLEMENTARY INFORMATION: Although we are not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 402.35(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and policy interpretations of the law and regulations.

Although Social Security Rulings do not have the same force and effect as the statute or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 402.35(b)(1), and are to be relied upon as precedents in adjudicating cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

(Catalog of Federal Domestic Assistance, Programs 96.001 Social Security—Disability Insurance; 96.006 Supplemental Security Income)

Dated: April 23, 1999.

Kenneth S. Apfel,

Commissioner of Social Security.

Policy Interpretation Ruling Titles II and XVI: Evaluating Cases Involving Chronic Fatigue Syndrome (CFS)

Purpose

To restate and clarify the policies of the Social Security Administration for developing and evaluating title II and title XVI claims for disability on the basis of Chronic Fatigue Syndrome (CFS), also frequently known as Chronic Fatigue and Immune Dysfunction Syndrome.

Citations (Authority)

Sections 216(i), 223(d), 223(f), 1614(a)(3) and 1614(a)(4) of the Social Security Act, as amended; Regulations No. 4, subpart P, sections 404.1505, 40404.1508–404.1513, 404.1520, 404.1520a, 404.1521, 404.1523, 404.1526–404.1529, 404.1560–404.1569a and 404.1593–404.1594;

and Regulations No. 16, subpart I, sections 416.905, 416.906, 416.908–416.913, 416.920, 416.920a, 416.921, 416.923, 416.924, 416.924b, 416.924c, 416.926, 416.926a, 416.927–416.929, 416.960–416.969a, 416.987, 416.993, 416.994, and 416.994a.

Introduction

CFS is a systemic disorder consisting of a complex of symptoms that may vary in incidence, duration, and severity. The current case criteria for CFS, developed by an international group convened by the Centers for Disease Control and Prevention (CDC) as an identification tool and research definition, include a requirement for four or more of a specified list of symptoms. These constitute a patient's complaints as reported to a provider of treatment.

However, the Social Security Act (the Act) and our implementing regulations require that an individual establish disability based on the existence of a medically determinable impairment; i.e., one that can be shown by medical evidence, consisting of medical signs, symptoms and laboratory findings. Disability may not be established on the basis of an individual's statement of symptoms alone.

This Ruling explains that CFS, when accompanied by appropriate medical signs or laboratory findings, is a medically determinable impairment that can be the basis for a finding of ''disability.'' It also provides guidance for the evaluation of claims involving CFS.

Policy Interpretation

CFS constitutes a medically determinable impairment when it is accompanied by medical signs or laboratory findings, as discussed below. CFS may be a disabling impairment.

Definition of CFS

CFS is a systemic disorder consisting of a complex of symptoms that may vary in incidence, duration, and severity. It is characterized in part by prolonged fatigue that lasts 6 months or more and that results in substantial reduction in previous levels of occupational, educational, social, or personal activities. In accordance with criteria established by the CDC, a physician should make a diagnosis of CFS ''only after alternative medical and psychiatric causes of chronic fatiguing illness have been excluded'' (Annals of Internal Medicine, 121:953–9, 1994). CFS has been diagnosed in children, particularly adolescents, as well as in adults.

Under the CDC definition, the hallmark of CFS is the presence of clinically evaluated, persistent or relapsing chronic fatigue that is of new or definite onset (*i.e.*, has not been lifelong), cannot be explained by another physical or mental disorder, is not the result of ongoing exertion, is not substantially alleviated by rest, and results in substantial reduction in previous levels of occupational, educational, social, or personal activities. Additionally, the current CDC definition of CFS requires the concurrence of 4 or more of the following symptoms, all of which must have persisted or recurred during 6 or more consecutive months of illness and must not have pre-dated the fatigue:

- Self-reported impairment in short-term memory or concentration severe enough to cause substantial reduction in previous levels of occupational, educational, social, or personal activities;
- Sore throat;
- Tender cervical or axillary lymph nodes;
- Muscle pain;
- Multi-joint pain without joint swelling or redness;
- Headaches of a new type, pattern, or severity;
- Unrefreshing sleep; and
- Postexertional malaise lasting more than 24 hours.

Within these parameters, an individual with CFS can also exhibit a wide range of other manifestations, such as muscle weakness, swollen underarm (axillary) glands, sleep disturbances, visual difficulties (trouble focusing or severe photosensitivity), orthostatic intolerance (*e.g.*, lightheadedness or increased fatigue with prolonged standing), other neurocognitive problems (*e.g.*, difficulty comprehending and processing information), fainting, dizziness, and mental problems (*e.g.*, depression, irritability, anxiety).

Requirement for a Medically Determinable Impairment

Sections 216(i) and 1614(a)(3) of the Act define ''disability'' [1] as the inability to engage in any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment (or combination of impairments) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.[2]

Sections 223(d)(3) and 1614(a)(3)(D) of the Act, and 20 CFR 404.1508 and 416.908 require that an impairment result from anatomical, physiological, or psychological abnormalities that can be shown by medically acceptable clinical and laboratory diagnostic techniques. The Act and regulations further require that an impairment be established by medical evidence that consists of signs, symptoms, and laboratory findings, and not only by an individual's statement of symptoms.

Under the CDC definition, the diagnosis of CFS can be made based on an individual's reported symptoms alone once other possible causes for the symptoms have been ruled out. However, the foregoing statutory and regulatory provisions require that, for evaluation of claims of disability under the Act, there must also be medical signs or laboratory findings before the existence of a medically determinable impairment may be established.

Establishing the Existence of a Medically Determinable Impairment

The following medical signs and laboratory findings establish the existence of a medically determinable impairment in individuals who have CFS. Although no specific etiology or pathology has yet been established for CFS, many research initiatives continue, and some progress has been made in ameliorating symptoms in selected individuals. With continuing scientific research, new medical evidence may emerge that will further clarify the nature of CFS and provide greater specificity regarding the clinical and laboratory diagnostic techniques that should be used to document this disorder.

Because of this, the medical criteria discussed below are only examples of signs and laboratory findings that will establish the existence of a medically determinable impairment; they are not all-inclusive. As progress is made in medical research into CFS, additional signs and laboratory findings may also be found that can be used to establish that individuals with CFS have a medically determinable impairment. The existence of CFS may be documented with medical signs or laboratory findings other than those listed below, provided that such documentation is consistent with medically accepted clinical practice and is consistent with the other evidence in the case record.

[1] Except for statutory blindness.

[2] For individuals under age 18 claiming benefits under title XVI, disability will be established if the individual is suffering from a medically determinable physical or mental impairment (or combination of impairments) that results in ''marked and severe functional limitations.'' See section 1614(a)(3)(C) of the Act and 20 CFR 416.906. However, for clarity, the following discussions refer only to claims of individuals claiming disability benefits under title II and individuals age 18 or older claiming disability benefits under title XVI. The concepts in this ruling, however, are also intended to apply in determining disability based on CFS for individuals under age 18 under title XVI.

Examples of Medical Signs That Establish the Existence of a Medically Determinable Impairment

For purposes of Social Security disability evaluation, one or more of the following medical signs clinically documented over a period of at least 6 consecutive months establishes the existence of a medically determinable impairment for individuals with CFS:

- Palpably swollen or tender lymph nodes on physical examination;
- Nonexudative pharyngitis;
- Persistent, reproducible muscle tenderness on repeated examinations, including the presence of positive tender points;[3] or,
- Any other medical signs that are consistent with medically accepted clinical practice and are consistent with the other evidence in the case record.

Examples of Laboratory Findings That Establish the Existence of a Medically Determinable Impairment

At this time, there are no specific laboratory findings that are widely accepted as being associated with CFS. However, the absence of a definitive test does not preclude reliance upon certain laboratory findings to establish the existence of a medically determinable impairment in persons with CFS. Therefore, the following laboratory findings establish the existence of a medically determinable impairment in individuals with CFS:[4]

- An elevated antibody titer to Epstein-Barr virus (EBV) capsid antigen equal to or greater than 1:5120, or early antigen equal to or greater than 1:640;
- An abnormal magnetic resonance imaging (MRI) brain scan;
- Neurally mediated hypotension as shown by tilt table testing or another clinically accepted form of testing; or,
- Any other laboratory findings that are consistent with medically accepted clinical practice and are consistent with the other evidence in the case record; for example, an abnormal exercise stress test or abnormal sleep studies, appropriately evaluated and consistent with the other evidence in the case record.

[3] There is considerable overlap of symptoms between CFS and Fibromyalgia Syndrome (FMS), but individuals with CFS who have tender points have a medically determinable impairment. Individuals with impairments that fulfill the American College of Rheumatology criteria for FMS (which includes a minimum number of tender points) may also fulfill the criteria for CFS. However, individuals with CFS who do not have the specified number of tender points to establish FMS, will still be found to have a medically determinable impairment.

[4] It should be noted that standard laboratory test results in the ''normal'' range are characteristic for many individuals with CFS, and should not be relied upon to the exclusion of all other clinical evidence in decisions regarding the presence and severity of a medically determinable impairment.

Mental Findings That Establish the Existence of a Medically Determinable Impairment

Some individuals with CFS report ongoing problems with short-term memory, information processing, visual-spatial difficulties, comprehension, concentration, speech, word-finding, calculation, and other symptoms suggesting persistent neurocognitive impairment. When ongoing deficits in these areas have been documented by mental status examination or psychological testing, such findings constitute medical signs or (in the case of psychological testing) laboratory findings that establish the presence of a medically determinable impairment.

Individuals with CFS may also exhibit medical signs, such as anxiety or depression, indicative of the existence of a mental disorder. When such medical signs are present and appropriately documented, the existence of a medically determinable impairment is established.

Evaluation

1. *General.* Claims involving CFS are adjudicated using the sequential evaluation process, just as for any other impairment. Once a medically determinable impairment has been found to exist (see discussion above), the severity of the impairment(s) must be established. The severity of an individual's impairment(s) is determined based on the totality of medical signs, symptoms, and laboratory findings, and the effects of the impairment(s), including any related symptoms, on the individual's ability to function.

Also, several other disorders (including, but not limited to, FMS, multiple chemical sensitivity, and Gulf War Syndrome, as well as various forms of depression, and some neurological and psychological disorders) may share characteristics similar to those of CFS. When there is evidence of the potential presence of another disorder that may adequately explain the individual's symptoms, it may be necessary to pursue additional medical or other development.

2. *Step 2.* When an adjudicator finds that an individual with CFS has a medically determinable impairment, he or she must consider that the individual has an impairment that could reasonably be expected to produce the individual's symptoms associated with CFS, as required in 20 CFR 404.1529(b) and 416.929(b), and proceed to evaluate the intensity and persistence of the symptoms. Thus, if an adjudicator concludes that an individual has a medically determinable impairment, and the individual alleges fatigue, pain, symptoms of neurocognitive problems, or other symptoms consistent with CFS, these symptoms must be considered in deciding whether the individual's impairment is ''severe'' at step 2 of the sequential evaluation process and at any later steps reached in the sequential evaluation process. If fatigue, pain, neurocognitive symptoms, or other symptoms are found to cause a limitation or restriction having more than a minimal effect on an individual's ability to perform basic work activities, the adjudicator must find that the individual has a ''severe'' impairment. See SSR 96–3p, ''Titles II and XVI: Considering Allegations of Pain and Other Symptoms in Determining Whether a Medically Determinable Impairment is Severe.''

3. *Step 3.* When an individual is found to have a severe impairment, the adjudicator must proceed with the sequential evaluation process and must next consider whether the individual's impairment is of the severity contemplated by the Listing of Impairments contained in appendix 1, subpart P of 20 CFR 404. Inasmuch as CFS is not a listed impairment, an individual with CFS alone cannot be found to have an impairment that meets the requirements of a listed impairment; however, the specific findings in each case should be compared to any pertinent listing to determine whether medical equivalence may exist.[5]

Further, in cases in which individuals with CFS have psychological manifestations related to CFS, consideration should always be given to whether the individual's impairment meets or equals the severity of any impairment in the mental disorders listings in 20 CFR, part 404, subpart P, appendix 1, sections 12.00 ff. or 112.00 ff.

4. *Steps 4 and 5.* For those impairments that do not meet or equal the severity of a listing, an assessment of residual functional capacity (RFC) must be made, and adjudication must proceed to the fourth and, if necessary, the fifth step of the sequential evaluation process.[6] In assessing RFC, all of the individual's symptoms must be considered in deciding how such symptoms may affect functional capacities. See SSR 96–7p, ''Titles II and

[5] In evaluating title XVI claims for disability benefits for individuals under age 18, consideration must also be given to the possibility of functional equivalence. See 20 CFR 416.926a.

[6] These steps of the sequential evaluation process are not applicable to claims for benefits under title XVI for individuals under age 18. See 20 CFR 416.924.

XVI: Evaluation of Symptoms in Disability Claims: Assessing the Credibility of an Individual's Statements'' and SSR 96–8p, ''Titles II and XVI: Assessing Residual Functional Capacity in Initial Claims.''

If it is determined that the individual's impairment(s) precludes the performance of past relevant work (or if there was no past relevant work), a finding must be made about the individual's ability to perform other work. The usual vocational considerations (see 20 CFR 404.1560–404.1569a and 416.960–416.969a) must be applied in determining the individual's ability to perform other work.

Many individuals with CFS are ''younger individuals,'' ages 18 through 49 (see 20 CFR 404.1563 and 416.963). Age, education, and work experience are not usually considered to limit significantly the ability of individuals under age 50 to make an adjustment to other work, including unskilled sedentary work.[7] However, a finding of ''disabled'' is not precluded for those individuals under age 50 who do not meet all of the criteria of a specific rule and who do not have the ability to perform a full range of sedentary work. The conclusion about whether such individuals are disabled will depend primarily on the nature and extent of their functional limitations or restrictions. Thus, if it is found that an individual is able to do less than the full range of sedentary work, refer to SSR 96–9p, ''Titles II and XVI: Determining Capability to Do Other Work—Implications of a Residual Functional Capacity for Less Than a Full Range of Sedentary Work.'' As explained in that Ruling, whether the individual will be able to make an adjustment to other work requires adjudicative judgment regarding factors such as the type and extent of the individual's limitations or restrictions and the extent of the erosion of the occupational base for sedentary work.

5. *Duration.* The medical signs and symptoms of CFS fluctuate in frequency and severity and often continue over a period of many months or years. Thus, appropriate documentation should include a longitudinal clinical record of at least 12 months prior to the date of application, unless the alleged onset of CFS occurred less than 12 months in the past, or unless a fully favorable determination or decision can be made without additional documentation. The record should contain detailed medical observations, treatment, the individual's response to treatment, and a detailed description of how the impairment limits the individual's ability to function over time.

When the alleged onset of disability secondary to CFS occurred less than 12 months before adjudication, the adjudicator must evaluate the medical evidence and project the degree of impairment severity that is likely to exist at the end of 12 months.[8] Information about treatment and response to treatment as well as any medical source opinions about the individual's prognosis at the end of 12 months are helpful in deciding whether the medically determinable impairment(s) is expected to be of disabling severity for at least 12 consecutive months.

6. *Continuing Disability Reviews.* In those cases in which an individual is found to have a disability based on CFS but medical improvement is anticipated, an appropriate continuing disability review should be scheduled based on the probability of cessation under the Medical Improvement Review Standard. This standard takes into account relevant individual case facts such as the combined severity of other chronic or static impairments and the individual's vocational factors.

Documentation

1. *General.* As with all claims for disability under both title II and title XVI, documentation of medical signs or laboratory findings in cases involving CFS is critical to establishing the presence of a medically determinable impairment. In cases in which CFS is alleged, longitudinal clinical records reflecting ongoing medical evaluation and treatment from the individual's medical sources, especially treating sources, are extremely helpful in documenting the presence of any medical signs or laboratory findings, as well as the individual's functional status over time. Every reasonable effort should be made to secure all available, relevant evidence in cases involving CFS to ensure appropriate and thorough evaluation.

Generally, evidence for the 12-month period preceding the month of application should be requested unless there is reason to believe that development of an earlier period is necessary, or unless the alleged onset of disability is less than 12 months before the date of the application.

2. *Recontacting Medical Sources/Consultative Examinations.* If the adjudicator finds that the evidence is inadequate to determine whether the individual is disabled, he or she must first recontact the individual's treating or other medical source(s) to determine whether the additional information needed is readily available, in accordance with 20 CFR 404.1512 and 416.912.[9] Only after the adjudicator determines that the information needed is not readily available from the individual's health care provider(s), or that the necessary information or clarification cannot be sought from the individual's health care provider(s), should the adjudicator proceed to arrange for a consultative examination(s) in accordance with 20 CFR 404.1519a and 416.919a. The type of consultative examination(s) purchased will depend on the nature of the individual's symptoms and the extent of the evidence already in the case record.

3. *Resolution of Conflicts.* It should be noted that conflicting evidence in the medical record is not unusual in cases of CFS due to the complicated diagnostic process involved in these cases. Clarification of any such conflicts in the medical evidence should be sought first from the individual's treating or other medical sources.

Medical opinions from treating sources about the nature and severity of an individual's impairment(s) are entitled to deference and may be entitled to controlling weight. If we find that a treating source's medical opinion on the issue(s) of the nature and severity of an individual's impairment(s) is well-supported by medically acceptable clinical and laboratory diagnostic techniques and is not inconsistent with the other substantial evidence in the case record, the adjudicator will give it controlling weight. (See SSR 96–2p, ''Titles II and XVI: Giving Controlling Weight to Treating Source Medical Opinions,'' and SSR 96–5p, ''Titles II and XVI: Medical Source Opinions on

[7] However, ''younger individuals'' ages 45–49 who are illiterate in English or unable to communicate in English, whose past work was unskilled (or who had no past relevant work), or who have no transferable skills, and who are limited to a full range of sedentary work, must be found disabled under rule 201.17 in Table No. 1 of appendix 2 of the Medical-Vocational Guidelines in 20 CFR part 404.

[8] To meet the statutory requirement for ''disability,'' an individual must have been unable to engage in any SGA by reason of any medically determinable physical or mental impairment which is expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. Thus, the existence of an impairment for 12 continuous months is not controlling; rather, it is the existence of a disabling impairment which has lasted or can be expected to last for at least 12 months that meets the duration requirement of the Act.

[9] We may not seek additional evidence or clarification from a medical source when we know from past experience that the source either cannot or will not provide the necessary findings.

Issues Reserved to the Commissioner.'')[10]

4. *Assessing Credibility.* In accordance with SSR 96–7p, if the existence of a medically determinable impairment that could reasonably be expected to produce the symptoms has been established, as outlined above, but an individual's statements about the intensity, persistence, or functionally limiting effects of symptoms are not substantiated by objective medical evidence, the adjudicator must consider all of the evidence in the case record, including any statements by the individual and other persons concerning the individual's symptoms. The adjudicator must then make a finding on the credibility of the individual's statements about symptoms and their functional effects. When additional information is needed to assess the credibility of the individual's statements about symptoms and their effects, the adjudicator must make every reasonable effort to obtain available information that could shed light on the credibility of the individual's statements.

Treating and other medical sources. In evaluating credibility, the adjudicator should ask the treating or other medical source(s) to provide information about the extent and duration of an individual's impairment(s), including observations and opinions about how well the individual is able to function, the effects of any treatment, including side effects, and how long the impairment(s) is expected to limit the individual's ability to function. Opinions from an individual's medical sources, especially treating sources, concerning the effects of CFS on the individual's ability to function in a sustained manner in performing work activities or in performing activities of daily living are important in enabling adjudicators to draw conclusions about the severity of the impairment(s) and the individual's RFC. In this regard, any information a medical source is able to provide contrasting the individual's impairment(s) and functional capacities since the alleged onset of CFS with the individual's status prior to the onset of CFS will be helpful in evaluating the individual's impairment(s) and its functional consequences.

Third-party information, including evidence from medical sources who are not ''acceptable medical sources'' for the purpose of establishing the existence of a medically determinable impairment, but who have provided services to the individual, may be very useful in deciding the individual's credibility. Information other than an individual's allegations and reports from the individual's treating sources helps to assess an individual's ability to function on a day-to-day basis and to depict the individual's capacities over a period of time. Such evidence includes, but is not limited to:

- Information from neighbors, friends, relatives, or clergy;
- Statements from such individuals as past employers, rehabilitation counselors, or school teachers about the individual's impairment(s) and the effects of the impairment(s) on the individual's functioning in the work place, rehabilitation facility, or educational institution;
- Statements from other practitioners with knowledge of the individual, e.g., nurse-practitioners, physicians' assistants, naturopaths, therapists, social workers, and chiropractors;
- Statements from other sources with knowledge of the individual's ability to function in daily activities; and
- The individual's own record (such as a diary, journal, or notes) of his or her own impairment(s) and its impact on function over time.

The adjudicator should carefully consider this information when making findings about the credibility of the individual's allegations regarding functional limitations or restrictions.

EFFECTIVE DATE: This Ruling is effective on April 30, 1999.

CROSS-REFERENCES: SSR 96–2p, ''Titles II and XVI: Giving Controlling Weight to Treating Source Medical Opinions,'' SSR 96–3p, ''Titles II and XVI: Considering Allegations of Pain and Other Symptoms in Determining Whether a Medically Determinable Impairment is Severe,'' SSR 96–4p, ''Titles II and XVI: Symptoms, Medically Determinable Physical and Mental Impairments, and Exertional and Nonexertional Limitations,'' SSR 96–5p, ''Titles II and XVI: Medical Source Opinions on Issues Reserved to the Commissioner,'' SSR 96–7p, ''Titles II and XVI: Evaluation of Symptoms in Disability Claims: Assessing the Credibility of an Individual's Statements,'' SSR 96–8p, ''Titles II and XVI: Assessing Residual Functional Capacity in Initial Claims,'' and SSR 96–9p, ''Titles II and XVI: Determining Capability to Do Other Work—Implications of a Residual Functional Capacity for Less Than a Full Range of Sedentary Work.''

[FR Doc. 99–10840 Filed 4–29–99; 8:45 am]

BILLING CODE 4190–29–P

[10] A medical source opinion that an individual is ''disabled'' or ''unable to work,'' has an impairment(s) that meets or is equivalent in severity to the requirements of a listing, has a particular residual functional capacity (RFC), that concerns whether an individual's RFC prevents him or her from doing past relevant work, or that concerns the application of vocational factors, is an opinion on an issue reserved to the Commissioner. Every such opinion must still be considered in adjudicating a disability claim; however, the adjudicator will not give any special significance to such an opinion because of its source. See SSR 96–5p, ''Titles II and XVI: Medical Source Opinions on Issues Reserved to the Commissioner.''

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Meeting

The Federal Aviation Administration (FAA) Satellite Operational Implementation Team (SOIT) hosted forum on the capabilities of the Global Positioning System (GPS/Wide Area Augmentation System (WAAS) and Local Area Augmentation System (LAAS).

AGENCY: Federal Aviation Administration.

ACTION: Notice of meeting.

Name: FAA SOIT Forum on GPA/WAAS/LAAS Capabilities.

Time and date: 9:00 a.m.–5:00 p.m., May 17–18, 1999.

Place: The Holiday Inn Fair Oaks Hotel, 11787 Lee Jackson Memorial Highway, Fairfax, Virginia 22033.

Status: Open to the aviation industry with attendance limited to space available.

Purpose: The FAA SOIT will be hosting a public forum to discuss the FAA's GPS approvals and WAAS/LAAS operational implementation plans. This meeting will be held in conjunction with a regularly scheduled meeting of the FAA SOIT and in response to aviation industry requests to the FAA Administrator. Formal presentations by the FAA will be followed by a question and answer session. Those planning to attend are invited to submit proposed discussion topics.

Registration: Participants are requested to register their intent to attend this meeting by May 3, 1999. Names, affiliations, telephone and facsimile numbers should be sent to the point of contact listed below.

Point of Contact: Registration and submission of suggested discussion topics may be made to Mr. Steven Albers, phone (202) 267–7301, fax (202) 267–5086, or email at steven.CTR.albers@faa.gov.

Issued in Washington, DC on March 22, 1999.

Hank Cabler,

SOIT Co-Chairman.

[FR Doc. 99–10849 Filed 4–29–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and its implementing regulations, the Federal Railroad Administration (FRA) hereby announces that it is seeking renewal of the following currently approved information collection activity. Before submitting these information collection requirements for clearance by the Office of Management and Budget (OMB), FRA is soliciting public comment on specific aspects of the activities identified below.

DATES: Comments must be received no later than June 29, 1999.

ADDRESSES: Submit written comments on any or all of the following proposed activities by mail to either: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., NW, Mail Stop 17, Washington, DC 20590, or Ms. Dian Deal, Office of Information Technology and Productivity Improvement, RAD–20, Federal Railroad Administration, 1120 Vermont Ave., NW, Mail Stop 35, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, ''Comments on OMB control number 2130–0517.'' Alternatively, comments may be transmitted via facsimile to (202) 493–6265 or (202) 493–6170, or E-mail to Mr. Brogan at robert.brogan@fra.dot.gov, or to Ms. Deal at dian.deal@fra.dot.gov. Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., NW, Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292) or Dian Deal, Office of Information Technology and Productivity Improvement, RAD–20, Federal Railroad Administration, 1120 Vermont Ave., NW, Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6133). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Pub. L. 104–13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR Part 1320, require Federal agencies to provide 60-days notice to the public for comment on information collection activities before seeking approval for reinstatement or renewal by OMB. 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Specifically, FRA invites interested respondents to comment on the following summary of proposed information collection activities regarding (i) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (ii) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (iii) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (iv) ways for FRA to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.*, permitting electronic submission of responses). *See* 44 U.S.C. 3506(c)(2)(A)(I)–(iv); 5 CFR 1320.8(d)(1)(I)–(iv). FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information mandated by Federal regulations. In summary, FRA reasons that comments received will advance three objectives: (i) reduce reporting burdens; (ii) ensure that it organizes information collection requirements in a ''user friendly'' format to improve the use of such information; and (iii) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

Below are brief summaries of the currently approved information collection activity that FRA will submit for clearance by OMB as required under the PRA:

Title and Form Number: Supplemental Qualifications Statement for Railroad Safety Inspector Applicants, FRA–F–120.

OMB Control Number: 2130–0517.

Abstract: The Supplemental Qualifications Statement for Railroad Safety Inspector Applicants is an information collection instrument used by FRA to gather additional background data so that FRA can evaluate the qualifications of applicants for the position of Railroad Safety Inspector. The questions cover a wide range of general and specialized skills, abilities, and knowledge of the five types of railroad safety inspector positions.

Affected Public: Individuals or Households.

Frequency of Submission: On occasion.

Estimated Number of Respondents: 2,000 Applicants.

Estimated Average Burden per Respondent: 3 hours.

Estimated Total Annual Burden: 6,000 hours.

Status: Extension of a currently approved collection.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC on April 27, 1999.

Marie S. Savoy,

Director, Office of Information Technology and Support Systems, Federal Railroad Administration.

[FR Doc. 99–10893 Filed 4–29–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Discretionary Cooperative Agreements To Assist in the Development of Crash Outcome Data Evaluation Systems

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of availability—Discretionary cooperative agreements to assist in the development and use of Crash Outcome Data Evaluation Systems.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) announces a discretionary cooperative agreement program to assist states in the development and use of Crash Outcome Data Evaluation Systems (CODES) and solicits applications for projects under this program from states that have not previously been funded to develop CODES. Under this program states will link their existing statewide traffic

records with medical outcome and charge data. The linked data will be used to support highway safety decision-making at the local, regional, and state levels to reduce deaths, non-fatal injuries, and health care costs resulting from motor vehicle crashes.

DATES: Applications must be received at the office designated below on or before July 2, 1999.

ADDRESSES: Applications must be submitted to DOT/National Highway Traffic Safety Administration, Office of Contracts and Procurement (NAD–30), ATTN: Debra J. Crites, 400 7th Street, SW, Room 5301, Washington, DC 20590. All applications submitted must include a reference to NHTSA Cooperative Agreement Program No. DTNH 22–99-H–07159. Interested applicants should contact Ms. Crites to obtain the application packet. Included in the application packet are reports about data linkage and applications for linked data developed by the CODES project.

FOR FURTHER INFORMATION CONTACT: General administrative questions may be directed to Debra J. Crites, Office of Contracts and Procurement. All questions and requests for copies may be directed by e-mail at *dcrites@nhtsa.dot.gov* or, if necessary, at (202) 366–9547. Programmatic questions relating to this cooperative agreement program should be directed to Dennis Utter, CODES Contracting Officer's Technical Representative (COTR), NHTSA, Room 6125, (NRD–31) 400 7th Street SW, Washington, DC 20590 or by e-mail at *dutter@nhtsa.dot.gov* or, if necessary, at (202) 366–5351.

SUPPLEMENTARY INFORMATION:

Statement of Work

Background

Crash data alone are unable to convey the magnitude of the medical and financial consequences of the injuries resulting from motor vehicle crashes or the success of highway safety decision-making to prevent them. Outcome information describing what happens to all persons involved in motor vehicle crashes, regardless of injury, is needed.

Person-specific outcome information is collected at the crash scene and en route by EMS personnel, at the emergency department, in the hospital, and after discharge. When these data are computerized and merged statewide, they generate a source of population-based data that is available for use by state and local traffic safety and public health professionals. Linking these records to statewide crash data collected by police at the scene is the key to developing relationships among specific vehicles, crash, and occupant behavior characteristics and their medical and financial outcomes.

The feasibility of linking crash and medical outcome (EMS, emergency department, hospital discharge, death certificate, claims, etc.) data was demonstrated by the CODES project. This project evolved from the Intermodal Surface Transportation Efficiency Act of 1991, which mandated that NHTSA prepare a Report to Congress about the benefits of safety belt and motorcycle helmet use. NHTSA provided funding to the States of Hawaii, Maine, Missouri, New York, Pennsylvania, Utah, and Wisconsin to link their state data and use the linked data to analyze the effectiveness of safety belts and motorcycle helmets. The Report was delivered to Congress in February 1996. In 1996, three CODES states (New York, Pennsylvania, Wisconsin) and three states which linked crash and medical data without CODES funding (Alaska, Connecticut, New Mexico) were awarded NHTSA research funds to develop state-specific applications for linked data. In 1997, NHTSA awarded CODES grants for linkage to Connecticut, New Hampshire, Maryland, North Dakota, South Dakota, Oklahoma, and Nevada. Iowa, Kentucky, Massachusetts, Nebraska, and South Carolina which were funded to implement the CODES linkage in 1998.

The CODES project also demonstrated that linked data have many uses for decision-making related to highway safety and injury control. In addition to demonstrating the effectiveness of safety belts and motorcycle helmets in preventing death, injury, and costs, the linked data were used to identify populations at risk for increased severity or high health care costs, the impact of different occupant behaviors on outcome, the safety needs at the community level, the allocation of resources for emergency medical services, the injury patterns by type of roadway and geographic location, and the benefits of collaboration on data quality. When crash, vehicle, and behavior characteristics were linked to outcome information, decision-makers could identify those prevention programs that had the most impact on preventing or reducing the medical and financial costs associated with motor vehicle crashes.

Data linkage fulfills expanded data needs without the additional expense and delay of new data collection. The linkage process itself provides feedback about data quality and content problems which leads to improvement in the state data. Thus, it is in NHTSA's interest to encourage states to qualify for CODES funding. NHTSA benefits from the improved quality of the state data while the states benefit from state-specific medical and financial outcome information about motor vehicle crashes.

Objective

The objective of this Cooperative Agreement is to provide resources to the applicant to:

1. Coordinate the development and institutionalization of the capability to link state crash and medical outcome data to identify the medical and financial consequences of motor vehicle crashes.

2. Utilize this information in crash analysis, problem identification, and program evaluation to improve decision-making at the local, state, and national levels related to preventing or reducing deaths, injuries, and direct medical costs associated with motor vehicle crashes.

3. Provide NHTSA with population-based linked crash and injury data to analyze specific highway safety issues of interest to NHTSA in collaboration with the CODES states.

4. Develop data linkage capabilities as a means of improving the quality of state data which support NHTSA's national data.

This cooperative agreement is not intended to fund basic development of data systems. However, it is hoped that this project will inspire States to develop and improve their state data and to expedite these activities in order to become eligible for CODES funding.

General Project Requirements

1. Link statewide population-based crash to injury data for any two calendar years available since 1995, to produce a linked data file that, if not statewide, reflects a contiguous geographical area that contains at least three (3) million residents in which the residents obtain all levels of emergency medical care without the need to be transferred elsewhere, except in rare occurrences, when involved in motor vehicle crashes. The linked data must be representative and generalizable for highway traffic safety purposes in the state/area. All applicants must be able to clearly document what data are available and what data are missing and the significance of the missing data for highway traffic safety planning efforts.

a. Develop a state/area-wide CODES that includes outcome information for all persons, injured and uninjured, involved in police reported motor vehicle crashes.

(1) The CODES should consist of crash data linked to hospital, and either

EMS or emergency department data, preferably both. States without EMS or emergency department data are eligible if this type of outpatient information can be obtained from insurance claims data for everyone involved in a crash who is treated at an outpatient center.

(2) Additional state/area-wide data (driver licensing, vehicle registration, citation/conviction records, insurance claims, HMO/managed care/etc. outpatient records, etc.) should be linked as necessary to meet state/area wide objectives.

b. Set up processes for collaboration among the technical experts who manage the data files being linked.

c. Assign an agency to be responsible for:

(1) Obtaining a computer and AutoMatch software to be dedicated to CODES activities (the computer and software resources may not be permanently tied to existing computer network in such a way as to preclude their movement in the future, as directed by the CODES Board of Directors, to another organization more interested in continuing the linkage and application for the linked data);

(2) Implementing probabilistic linkage methodology to facilitate tracking the crash victim from the scene to final disposition/recovery using existing computerized state/area-wide, population-based databases;

(3) Validating the linkage results by evaluating the rate of false positives and false negatives among the linked and unlinked records;

(4) Analyzing the linked data; and

(5) Cross-training sufficient staff to ensure continuation of the linkage capability in spite of changes in organizational priorities or personnel during or after the project period.

d. Document the file preparation, linkage and validation processes so that the linkage can be repeated efficiently during subsequent years after Federal funding ends and provide evidence of this documentation.

e. Provide NHTSA a version of the linked data file with supporting documentation that conforms to State laws and regulations governing patient/provider confidentiality, yet satisfies minimum NHTSA data needs.

2. Use the linked data to influence highway traffic safety and injury control decision-making by implementing at least one application of linked data that is expected to have a positive impact on reducing death, injury, and direct medical costs.

3. Develop the computer programs needed to translate the linked data into information useful for highway traffic safety and injury control at the local, regional, or state/area-wide level.

a. Develop for access within the State a public-use version of the linked data, copies of which will be distributed upon request.

b. Develop the resources necessary to produce and distribute routine reports, respond to data requests, and provide access to the linked data for analytical, management, planning, and other purposes after Federal funding ends.

c. Use the Internet and other electronic mechanisms to efficiently distribute and share information generated from the linked data.

4. Promote collaboration between the owners and users of the state/area-wide data to facilitate data linkage and applications for linked data.

a. Establish a state/area-wide CODES collaborative network.

(1) Convene a Board of Directors consisting of the data owners and major users of the state/area-wide data. The CODES Board of Directors will be responsible for managing and institutionalizing the linked data, establishing the data release policies for the linked data, supporting the activities of the grantee, ensuring that data linkage and application activities are appropriately coordinated within the state/area, and resolving common issues related to data accessibility, availability, completeness, quality, confidentiality, transfer, ownership, fee for service, management etc. The CODES Board of Directors will meet monthly.

(2) Convene a CODES Advisory Group consisting of the CODES Board of Directors and other stakeholders interested in the use of linked data to support highway safety, injury control, EMS, etc. The CODES Advisory Group will be informed of the results of the data linkage, application of the data for decision-making, the quality of the state/area-wide data for linkage and the quality of the linked data for analysis. The CODES Advisory Group will meet twice a year.

b. Promote coordination of the various stakeholders through use of the Internet, teleconferencing, joint meetings, and other mechanisms to ensure frequent communication among all parties to minimize the expense of travel.

5. Work collaboratively with NHTSA to implement the Cooperative Agreement.

a. Attend Initial Briefing Meeting: Each grantee shall attend a briefing meeting (date and time to be scheduled within 30 days after the award) in Washington, D.C. with NHTSA staff. The purpose of the meeting will be to review the goals and objectives of the project, discuss implementation of the linkage software, review the tasks to be specified in the action plan for the data linkage and applications of the linked data for highway safety or injury control decision-making and discuss the agendas for the Board of Directors and Advisory Group.

b. Submit Detailed Action Plan and Schedule. Within 30 days after the briefing meeting, the grantee shall deliver a detailed action plan and schedule, covering the remaining funding period, for accomplishing the data linkage and incorporating information generated from linked data into the processes for highway safety or injury control decision-making. The action plan shall be subject to the technical direction and approval of NHTSA.

c. Attend Technical Workshops. All grantees together shall attend two technology transfer workshops during project performance at locations convenient to the majority of CODES grantees. The first meeting, to be scheduled during the ninth month of funding, will be organized to share data linkage experiences, review the proposed state-specific highway safety applications of linked data, and resolve common problems. The second meeting will be scheduled at the end of the funding period for the purpose of sharing results and making recommendations for future CODES projects.

d. Attend National Meeting. At the direction of the COTR, Grantee shall attend one national Meeting to report on progress or results from their CODES project.

e. Progress Report. Grantee shall submit quarterly progress reports. During the period of performance, the grantee will provide letter-type written reports to the COTR. These reports will compare what was proposed in the Action Plan with actual accomplishments during the past quarter; what commitments have been generated; what follow up and state-level support is expected; what problems have been experienced and what may be needed to overcome the problems; and what is specifically planned to be accomplished during the next quarter. These reports will be submitted seven days after the end of each quarter.

f. Develop a plan to institutionalize the data linkage and applications for linked data after Federal funding ends. By the end of the 15th month of funding, each grantee shall submit a long-range plan and schedule to institutionalize data linkage and the use of linked data for highway safety and

injury control decision-making within the state.

g. Final Report. The grantee shall deliver to NHTSA, at the end of the project, a final report describing the results of the data linkage process, and the applications of the linked data generated during the project.

NHTSA Involvement

NHTSA will be involved in all activities undertaken as part of the Cooperative Agreement program and will:

1. Provide a Contracting Officer's Technical Representative (COTR) to participate in the planning and management of the Cooperative Agreement and coordinate activities between the grantee and NHTSA.

2. Provide, at no cost to the grantee, training and technical assistance by a CODES expert for up to two weeks on-site and off-site during the project to assist the grantee in preparing the files for linkage, implementing probabilistic linkage techniques, validating the linkage results, developing applications for the linked data, and organizing the CODES Board of Directors and Advisory Group.

3. Develop a format in which the linked data and supporting documentation will be delivered to NHTSA.

4. Conduct Initial Briefing at NHTSA Headquarters in Washington, D.C. (Date and time to be scheduled within 30 days after the award.) The purpose of the meeting will be to review the goals and objectives of the project, discuss implementation of the linkage software, identify the tasks to be specified in the action plan for the data linkage and applications of the linked data for highway safety or injury control decision-making, and discuss agendas for the Board of Directors and Advisory Group.

5. Conduct two Technical Assistance meetings for the purpose of technology transfer. The first meeting to be scheduled during the ninth month of funding, will be organized to share data linkage experiences, review the proposed state-specific highway traffic safety applications of linked data, and resolve common problems. The second meeting will be scheduled at the end of the funding period for the purpose of sharing results and making recommendations for future CODES projects. Locations for the Workshops will be determined based on the location of the Grantees. However, for the purpose of cost estimation, assume the workshops will be held in Washington, D.C.

6. Collaboratively work with the state when using the state's linked data to analyze and report on specific highway safety issues and report on them.

Period of Support

The project study effort described in this announcement will be supported through the award of up to four (4) Cooperative Agreements, depending upon the merit of the applications received and the availability of funding. It is anticipated that individual award amounts will range from $250,000—$300,000. Project efforts involving linkage of the state/area-wide data and applications for the linked data must be completed within twenty-one months after funding.

Eligibility Requirements

The grantee must be a State Highway Safety Office, Department of Transportation or other State agency involved with highway traffic safety to ensure active involvement by highway traffic safety stakeholders. States which have previously been funded to develop CODES are not eligible. Only one application should be submitted for a state/area. Because this Cooperative Agreement program requires extensive collaboration among the data owners in order to achieve the program objectives, it is envisioned that the State Highway Traffic Safety Office will need to actively involve the data owners in the development of the formal application and may need to sub-contract activities with at least one of them to implement a successful CODES.

While the general eligibility requirements are broad, applicants are advised that this Cooperative Agreement program is not designed to support basic developmental efforts. Although no single organization within any state/area has all of the required data capabilities, the application should demonstrate strong collaborative agreements with the data owners and access to at least the state/area-wide crash, hospital, and either EMS or emergency department data, or both, by the time of the award. States/areas that collect at least the date of birth and zip code of residence on their crash data and have state/area-wide health and/or vehicle insurance claims information may be eligible, in spite of the lack of EMS or emergency department information, if the claims data include everyone involved in motor vehicle crashes. In addition, it is important that the applicant indicate the level of commitment, with state/area funding and/or shared resources, by the data owners to meet program objectives, particularly institutionalization of the data linkage and applications for linked data.

Application Procedure

Each applicant must submit one original and two (2) copies of the application package to: DOT/National Highway Traffic Safety Administration, Office of Contracts and Procurement (NAD–30), ATTN: Debra J. Crites, 400 7th Street, S.W., Room 5301, Washington, D.C. 20590. Applications must be typed on one side of the page only. An additional three (3) copies will facilitate the review process, but are not required. Applications must include a reference to NHTSA Cooperative Agreement Program No. DTNH22–99-H–07159. Only complete application packages received on or before 2 p.m., July 2, 1999 will be considered.

Application Contents

1. The application package must be submitted with OMB Standard Form 424(REV. 4–88, including 424A and 424B), Application for Federal Assistance, with the required information filled in and assurances signed (SF 424B). While the Form 424A deals with budget information and Section B identifies Budget Categories, the available space does not permit a level of detail which is sufficient to provide for a meaningful evaluation of the proposed total costs. A supplemental sheet shall be provided which presents a detailed breakdown of the proposed costs (direct labor, including labor category, level of effort, and rate; direct materials including itemized equipment; travel and transportation, including projected trips and number of people traveling; subcontractors/subgrants, with similar detail, if known; and overhead), as well as any costs the applicant proposes to contribute or obtain from other sources in support of the project. Applicants shall assume that awards will be made during September 1999 and should prepare their applications accordingly.

2. The application shall include a program narrative statement of not more than 20 pages which addresses the following as a minimum:

a. A brief description of the state/area in terms of its highway safety and injury control decision-making processes for planning, performance monitoring and other functions aimed at reducing death, injury, and costs of injuries resulting from motor vehicle crashes. This description should indicate how linked data will make a difference to the decision-making processes.

b. A brief description of the existing crash and medical outcome data files. pplicants will link state/area-wide

population-based crash data to EMS (and/or emergency department or insurance claims) and hospital discharge data to obtain medical and financial outcomes for persons injured in motor vehicle crashes for any two calendar years of data available since 1995. Linkages to census, other traffic records (vehicle registration, driver licensing, roadway, conviction/citation, etc.), insurance claims, etc., are encouraged to meet priorities for highway safety and injury control decision-making. The following information should be included describing the state/area-wide data:

(1) The total crashes, total persons involved in crashes, total victims with injuries caused by a motor vehicle crash as identified or estimated and a descriptive profile of the total injuries by severity level, if available, state/area-wide.

(2) Information about the current status of the data files to be linked, recorded using the format below:

Data files	Reporting threshold (A)	Rate of compliance with (A)	Data year(s) for computerized data available	Month and year when computerized data available for linkage	Percent of records state/area wide which need to be computerized for linkage
Crash					
EMS					
ED					
Hosp					
Other:					

(3) The data elements chosen to identify persons and crashes and, for each, the missing data rate.

(4) The data elements indicating type of injury, severity of injury, total charges, a payer source and, for each, the missing data rate.

c. A brief description of the proposed sequence for linking the data files.

d. A brief description of how staff from the various data owners will be cross-trained in the CODES linkage to compensate for potential future changes in organizational priorities and personnel.

e. A brief description of the process to be used to ensure adequate documentation of the data files and linkage process.

f. A brief description of how the linked data will be converted into information useful for the highway safety and injury control decision-making processes for the purpose of reducing death, injury, and costs resulting from motor vehicle crashes.

Describe:

(1) The different types of decision-making processes, currently being utilized in the state/area, that identify highway traffic safety and injury control objectives and prioritize prevention programs that have the most impact on reducing death, injury and direct medical costs associated with motor vehicle crashes; and

(2) Why linked data are needed to make these decision-making processes more effective and how the data will be incorporated.

g. A brief description of each member of the CODES Board of Directors and the proposed arrangements describing the management and use of the linked data.

3. The application shall include an appendix. A large appendix is strongly discouraged. Additional material should be included only if it is necessary to support information about data linkage, applications for linked data or institutionalization discussed in the application. Do not send copies of brochures, documents, etc., developed as the result of a collaborative effort in the state/area. The appendix should include the following:

a. Letters of support from each proposed member of the CODES Board of Directors. A letter of support should reflect the signer's level of commitment to the CODES project and thus should not be a form letter. The letter of support should document:

(1) Why linked data are important to the agency.

(2) The priority assigned by the agency to obtain linked data compared to other responsibilities.

(3) The agency's level of commitment in terms of the number of staff and the dollars or shared resources which will be available to support and institutionalize CODES.

(4) The agency's willingness to collaborate with other data owners to support shared ownership of the linked data.

(5) The agency's permission to release the linked data (or description of policies which would restrict transfer) to NHTSA at the end of the project.

b. A brief description or letters of support should be included for the other stakeholders to be represented on the CODES Advisory Group. The letters of support should indicate the stakeholder's need for the linked data, and willingness to facilitate the linkage of state/area-wide data or use of linked data for decision-making.

c. A list of activities in chronological order and a time line to show the expected schedule of accomplishments and their target dates.

d. Descriptions of the proposed project personnel as follows:

(1) Project Director: Include a resume along with a description of the director's leadership capabilities to make the various stakeholders work together.

(2) Key personnel proposed for the data linkage and applications of linked data, and other personnel considered critical to the successful accomplishment of this project: include a brief description of qualifications, employment status (permanent, temporary) in the organization, and respective organizational responsibilities. The proposed level of effort in performing the various activities should also be identified.

e. A brief description of the applicant's organizational experience in performing similar or related efforts, and the priority that will be assigned to this project compared to the organization's other responsibilities.

f. Data Use Agreement. A description of the existing State laws and regulations governing patient/provider confidentiality in the data files being linked that would restrict use of the data for linkage and/or for transfer of the CODES linked data to NHTSA and conditions under which the linked data file may be used by NHTSA.

Application Review Process and Evaluation Factors

Initially, all application packages will be reviewed to confirm that the applicant is an eligible recipient and to ensure that the application contains all of the items specified in the Application Content section of this announcement.

Each complete application from an eligible recipient will then be evaluated by an Evaluation committee. The applications will be evaluated using the following criteria which are listed in descending order of importance:

1. *Understanding the intent of the program* (30%). The applicant's recognition of the importance of CODES to obtain medical and financial outcome data which are necessary for a comprehensive evaluation of the impact of highway safety and injury control countermeasures. The applicant's understanding of the importance of developing CODES as a meaningful and appropriate strategy for improving traffic records capabilities and ensuring the continuation of CODES after completion of this project.

2. *Technical approach for project completion* (30%). The reasonableness and feasibility of the applicant's approach for successfully achieving the objectives of the project within the required time frame. The appropriateness and feasibility of the applicant's proposed plans for data linkage and applications for the linked data. Evidence that the applicant has the necessary authorization and support from data owners to access medical and non-medical state/area-wide data, particularly total charges and information about type and severity of injury which are not routinely available for highway safety analyses and release data.

3. *Project personnel* (20%). The adequacy of the proposed personnel to successfully perform the project study, including qualifications and experience (both general and project related), the various disciplines represented, and the relative level of effort proposed for the professional, technical and support staff.

4. *Organizational capabilities* (20%). The adequacy of organizational resources and experience to successfully manage and perform the project, particularly to support the collaborative network and respond to the increasing demand for access to the linked data. The proposed coordination with and use of other organizational support and resources, including other sources of financial support.

Depending upon the results of the evaluation process, NHTSA may choose to alter the number of awards. In addition, NHTSA may suggest revisions to applications as a condition of further consideration to ensure the most efficient and effective performance consistent with the objectives of the project. An organizational representative of the National Association of Governors' Highway Safety Representatives will be assisting in NHTSA's technical evaluation process.

Special Award Selection Factors

After evaluating all applications received, in the event that insufficient funds are available to award to all meritorious applicants, NHTSA may consider the following special award factors in the award decision:

1. Priority may be given to those applicants that have statewide data available for linkage.

2. Priority may be given to applicants who have the highest probability of maintaining the collaborative network of data owners and users, of institutionalizing the linkage of the crash and medical outcome data on a routine basis, and of continuing to respond to data requests after the project is completed.

3. Priority may be given to an applicant on the basis that the application fits a profile of providing NHTSA with a broad range of population densities (rural through metropolitan) with different highway safety needs.

Terms and Conditions of the Award

1. Prior to award, each grantee must comply with the certification requirements of 49 CFR part 20, Department of Transportation New Restrictions on Lobbying, and 49 CFR part 29, Department of Transportation Government-wide Debarment and Suspension (Non-procurement) and Government-wide Requirements for Drug Free Workplace (Grants). In addition, grantees must certify that data release agreements have been signed by the owners of the data files being linked to transfer the CODES linked database according to NHTSA specifications to NHTSA.

2. Reporting requirements and Deliverables:

a. Detailed Action Plan and Schedule. Within 30 days after the briefing meeting, the grantee shall deliver a detailed action plan and schedule for accomplishing the data linkage and applications of linked data for decision-making, showing any revisions to the approach proposed in the grantee's application. This detailed action plan will be subject to the technical direction and approval of NHTSA and will describe the following:

(1) The personnel and hardware resources required to perform the data linkage.

(2) The process for obtaining the different files required for linkage.

(3) The process for accelerating the data processing schedule, if necessary, so that the state/area-wide data are available in a timely manner for the linkage.

(4) The process for verifying the data and performing additional edits on the linkage variables.

(5) The process for resolving problems expected during linkage and their proposed solutions.

(6) The process for documenting the content of the various linked data files, programs used for editing, and the linkage process itself.

(7) The milestones for completing the various phases of the probabilistic linkage and validation processes.

(8) The milestones for proposed meeting schedules and actions by the Board of Directors and Advisory Group.

(9) Date(s) for providing the linked data to NHTSA.

(10) The process for identifying the limitations of the final linked database or applications of the linked data, if any.

(11) The process for ensuring access to the linked data as demand for information increases.

(12) The process for choosing those applications of linked data that will have the most impact on reducing death, injury, and costs of injuries related to motor vehicle crashes.

(13) The milestones for implementing the applications.

(14) The benefits expected from the applications of the linked data.

b. Quarterly Progress Report. During the performance, the grantee will provide letter-type written reports to the NHTSA COTR. These reports will compare what was proposed in the Plan of Action with actual accomplishments during the past quarter; what commitments have been generated; what follow-up and state-level support is expected; what problems have been experienced and what may be needed to overcome the problems; and what is specifically planned to be accomplished during the next quarter. These reports will be submitted seven days after the end of each quarter.

c. Board of Directors and Advisory Group Meetings. Copies of the agenda and minutes for each Board of Directors and Advisory Group Meeting will be attached to the Progress Report submitted to NHTSA immediately following the meeting.

d. Institutionalization Plan. The grantee shall deliver to NHTSA by the end of the 15th month of funding, a long-range plan and schedule to institutionalize data linkage and the use of linked data for highway safety and injury control decision-making within the state.

e. Final Report. The grantee shall deliver to NHTSA, at the end of the

project, a final report describing the results of the data linkage process, and the applications of the linked data. The report shall include the following:

(1) A description of the state/area wide linked crash and injury data,

(2) A description of the file preparation,

(3) A description of the linkage, validation processes and results,

(4) A description of the extent of the documentation and how the documentation will facilitate linkage in subsequent years,

(5) A discussion of the limitations of the linked data and subsequent applications of these data,

(6) A description of the applications of linked data implemented for decision-making and results of the decision-making,

(7) A description of how the data linkage and use of linked data for decision making has been institutionalized for decision-making,

(8) A description of the documentation created to facilitate repeating of the linkage process and an estimate of how much time is needed to repeat the linkage in subsequent years, and

(9) A copy of the public-use formats that were successful for incorporating linked data into the decision-making processes for highway safety and injury control.

e. CODES Linked Database. The grantee shall deliver to NHTSA after linkage, at the date specified in the Action Plan, the CODES linked databases. NHTSA will use the data to help facilitate the development of data linkage capabilities at the state/area-wide level and to encourage use of the linked data for decision making.

The deliverables will include:

(1) The database in an electronic media and format acceptable to NHTSA, including all persons, regardless of injury severity (none, fatal, non-fatal), involved in a reported motor vehicle crash for any two calendar years of available data since 1995 and including medical and financial outcome information for those who are linked.

(2) A copy of the file structure for the linked data file.

(3) Documentation of the definitions and file structure for each of the data elements contained in the linked data files.

(4) An analysis of the quality of the linked data and a description of any data bias which may exist based on an analysis of the false positive and false negative linked records.

3. During the effective performance period of Cooperative Agreements awarded as a result of this announcement, the agreement as applicable to the grantee shall be subject to the National Highway Traffic Safety Administration's General Provisions for Assistance Agreements, dated July 1995.

Issued: April 26, 1999.

Patricia Breslin,

Director, National Center for Statistics and Analysis, National Highway Traffic Safety Administration.

[FR Doc. 99–10851 Filed 4–29–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33735]

Great Western Railway of Colorado, L.L.C.—Acquisition Exemption—The Burlington Northern and Santa Fe Railway Company

Great Western Railway of Colorado, L.L.C. (GWR), a Class III rail carrier, has filed a notice of exemption under 49 CFR 1150.41 to acquire approximately 6.12 miles of rail lines owned by The Burlington Northern and Santa Fe Railway Company (BNSF) located: (1) between milepost 76.5 and milepost 75.48, near Riverside Avenue in Fort Collins, CO; (2) between milepost 74.57, near Linden Street, and milepost 74.3, at Willow Street, in Fort Collins; (3) all of the tracks, except Track No. 398, in BNSF's North Yard, in Fort Collins; (4) BNSF's Black Hollow Line located between BNSF's main line at milepost 77.36 and the end of the Black Hollow Line at milepost 79.53 near Fort Collins; and (5) BNSF's Busch Spur located between milepost 78.8 and milepost 79.9 in Busch, CO.[1] GWR will operate the property.

In conjunction with the acquisition of these rail lines, GWR will acquire approximately 7.1 miles of incidental overhead trackage rights over BNSF's rail line between milepost 74.5, in Fort Collins, and milepost 80.2, near Busch, and over Track No. 398, in BNSF's North Yard, in Fort Collins. GWR will also acquire by assignment from BNSF approximately .91 miles of overhead trackage rights over the Union Pacific Railroad Company's rail line located between Mullberry Street and Linden Street, in Fort Collins.

The earliest the transaction could be consummated was April 16, 1999, the effective date of the exemption (7 days after the exemption was filed).

[1] GWR certifies that its annual revenue will not exceed those that would qualify it as a Class III rail carrier and that its annual revenues are not projected to exceed $5 million.

If this notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33735 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karl Morell, BALL JANIK LLP, Suite 225, 1455 F Street, NW, Washington, DC 20005.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: April 20, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–10775 Filed 4–29–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33738]

Rock & Rail, Inc.—Acquisition and Operation Exemption—The Burlington Northern and Santa Fe Railway Company

Rock & Rail, Inc. (R&R), a Class III rail carrier, has filed a notice of exemption under 49 CFR 1150.41 to acquire The Burlington Northern and Santa Fe Railway Company's (BNSF) ownership interest in, and to acquire from BNSF a permanent and exclusive rail freight easement to operate over, and thus to operate, approximately 41.31 miles of rail line in Pueblo and Canon City, CO. The lines or rights intended to be acquired by R&R are as follows: (1) From milepost 160.30 in Canon City extending westerly for a distance of approximately 252 feet in Fremont County, CO; (2) from milepost 160.80 in Canon City extending easterly approximately 256 feet to serve the power plant at or near Canon City, in Fremont County, CO; (3) BNSF's trackage rights over Union Pacific Railroad Company's (UP) rail line between milepost 160.30 in Canon City and milepost 120.73 in Pueblo, a distance of 39.57 miles in Fremont and Pueblo Counties, CO; and (4) all of BNSF's connecting sidings, spurs, sidetracks and yard, industrial, team and switching tracks that are owned or

leased by BNSF between the end of BNSF's track, approximately 252 feet west of milepost 160.30 in Canon City, and the connection between BNSF's line and UP's line at milepost 120.73 in Pueblo. In addition, BNSF will grant R&R incidental trackage rights over BNSF's rail line extending easterly from the connection between BNSF's line and UP's line at milepost 120.73 in Pueblo and approximately 2,243 feet over Track No. 254, approximately 2,240 feet over Track No. 256, and approximately 4,200 feet over BNSF's main line track to milepost 619.75, for the purpose of interchanging with BNSF in Pueblo, for a total distance of approximately 1.64 miles in Pueblo County, CO.[1]

The transaction was scheduled to be consummated on or after April 14, 1999. R&R has subsequently advised the Board that the transaction has been consummated and that R&R will shortly commence operations on the Canon City-Pueblo Line.[2]

The purpose of the transaction is to permit R&R, rather than BNSF, to serve the shippers at Canon City, Florence, and Portland, and to conduct overhead operations between Canon City and Pueblo.

If this notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33738, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Fritz R. Kahn, Suite 750 West, 1100 New York Avenue, NW, Washington, DC 20005–3934.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: April 26, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–10852 Filed 4–29–99; 8:45 am]

BILLING CODE 4915–00–P

[1] R&R certifies that its annual revenue will not exceed those that would qualify it as a Class III rail carrier and that its annual revenues are not projected to exceed $5 million.

[2] On April 14, 199, UP submitted a letter stating that it was not objecting to the requested exemption because it is permissive in nature and would not give BNSF the ability to transfer rights that it has no legal right to transfer. UP went on to assert that BNSF's trackage rights between milepost 147.01, near Portland, CO, and milepost 160.30, near Canon City, are not assignable by BNSF without UP's consent and that UP's consent has neither been sought nor granted. UP also asserted that, while there is a small power plant at Canon City, neither BNSF's solely owned track nor its trackage rights over UP in the vicinity of Canon City actually reach the power plant. UP thus disputes that R&R would have a right to serve the power plant.

In issuing this notice, the Board is making no ruling on the contractual rights of the parties. Therefore, by invoking the class exemption, R&R has the right to perform common carrier service to the extent that it has or obtains the property rights to enable it to carry out the service.

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 26, 1999.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 1, 1999 to be assured of consideration.

Financial Crimes Enforcement Network (FinCEN)

OMB Number: 1506–0012.

Form Number: TD F 90–22.53.

Type of Review: Extension.

Title: Designation of Exempt Person.

Description: Bank and other financial institutions will use the form to exempt certain customers from the requirement to report Treasury a customer's cash transactions exceeding $10,000.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents/ Recordkeepers: 19,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 1 hour, 10 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 291,667 hours.

Clearance Officer: Lois K. Holland (202) 622–1563, Departmental Offices, Room 2110 , 1425 New York Avenue, NW, Washington, DC 20220.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 99–10844 Filed 4–29–99; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 22, 1999.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L.104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before June 1, 1999 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0723.

Regulation Project Number: LR–115–72 Final.

Type of Review: Extension.

Title: Manufacturers Excise Taxes on Sporting Goods and Firearms and Other Administrative Provisions of Special Application to Manufacturers and Retailers Excise Taxes.

Description: Chapters 31 and 32 of the Internal Revenue Code impose excise taxes on the sale or use of certain articles. Section 6416 allows a credit or refund of the tax to manufacturers in certain cases. Sections 6420, 6421, and 6427 allow credits or refunds of the tax to certain users of the articles.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms, State, Local or Tribal Government.

Estimated Number of Respondents/ Recordkeepers: 1,500,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 19 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 475,000 hours.

OMB Number: 1545–0803.

Form Number: IRS Form 5074.

Type of Review: Extension.

Title: Allocation of Individual Income Tax to Guam or the Commonwealth of Northern Mariana Islands (CNMI).

Description: Form 5074 is used by U.S. citizens or residents as an

attachment to Form 1040 when they have $50,000 or more in adjusted gross income from U.S. sources and $5,000 or more in gross from Guam or the Commonwealth of the Northern Mariana Islands (CNMI). The data is used by IRS to allocate income tax due to Guam or CNMI as required by 26 U.S.C. 7654.

Respondents: Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 50.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—2 hr., 57 min.
Learning about the law or the form—8 min.
Preparing the form—49 min.
Copying, assembling, and sending the form to the IRS—17 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 210 hours.

OMB Number: 1545–0863.

Regulation Project Number: LR–218–78 Final.

Type of Review: Extension.

Title: Product Liability Losses and Accumulations for Product Liability Losses.

Description: Generally, a taxpayer who sustains a product liability loss must carry the loss back 10 years. However, a taxpayer may elect to have such loss treated as a regular net operating loss under section 172. If desired, such election is made by attaching a statement to the tax return. This statement will enable the IRS to monitor compliance with a statutory.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 5,000.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 2,500 hours.

OMB Number: 1545–0879.

Regulation Project Number: IA–195–78 Final.

Type of Review: Extension.

Title: Certain Returned Magazines, Paperbacks or Records.

Description: The regulations provide rules relating to an exclusion from certain returned merchandise. The regulations provide that in addition to physical return of the merchandise, a written statement listing certain information may constitute evidence of the return. Taxpayers who receive physical evidence of the return may, in lieu of retaining physical evidence, retain documentary evidence of the return. Taxpayers in the trade or business of selling magazines, paperbacks, or records, who elect to use a certain method of accounting.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 19,500.

Estimated Burden Hours Per Respondent/Recordkeeper: 25 minutes.

Estimated Total Recordkeeping Burden: 8,125 hours.

OMB Number: 1545–1011.

Notice Number: Notice 87–61.

Type of Review: Extension.

Title: Long-Term Contracts; Methods of Accounting Under Tax Return.

Description: These reporting requirements are necessary to permit taxpayers to change their methods of accounting for long-term contracts to comply with section 460 of the Internal Revenue Code.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 5,000.

Estimated Burden Hours Per Respondent: 5 hours.

Frequency of Response: Other (For the first taxable year the taxpayer changes it method).

Estimated Total Reporting Burden: 25,000 hours.

OMB Number: 1545–1100.

Regulation Project Number: REG–209106–89 NPRM (formerly EE–84–89).

Type of Review: Extension.

Title: Changes With Respect to Prizes and Awards and Employee Achievement Awards.

Description: This regulation requires recipients of prizes and awards to maintain records to determine whether a qualifying designation has been made. The affected public are prize and award recipients who seek to exclude the cost of a qualifying prize or award.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 5,100.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1,275 hours.

OMB Number: 1545–1135.

Regulation Project Numbers: INTL–121–90, INTL–292–90, and INTL–361–89 Final.

Type of Review: Extension.

Title: Treaty-Based Return Positions.

Description: Regulations section 301.6114–1 sets forth the reporting requirement under § 6114. Persons or entities subject to this reporting requirement must make the required disclosure on a statement attached to their return, in the manner set forth, or be subject to a penalty. Regulations section 301.770(b)–7(a)(4)(iv)(C) sets forth the reporting requirement for dual requirement for dual resident S corporation shareholders who claim treaty benefits as nonresidents of the United States.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents: 6,020.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 6015 hours.

OMB Number: 1545–1244.

Regulation Project Number: PS–39–89 NPRM.

Type of Review: Extension.

Title: Limitation on Passive Activity Losses and Credits-Treatment of Self-Charged Items of Income and Expense.

Description: The IRS will use this information to determine whether the entity has made a proper timely election and to determine that taxpayers are complying with the election in the taxable year of the election and subsequent tax years.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents: 1,000.

Estimated Burden Hours Per Respondent: 6 minutes.

Frequency of Response: Other (First taxable year that entity seeks to make election.).

Estimated Total Reporting Burden: 100 hours.

OMB Number: 1545–1269.

Regulation Project Number: PS–7–90 Final.

Type of Review: Extension.

Title: Nuclear Decommissioning Fund Qualification Requirements.

Description: If a taxpayer requests, in connection with a request for a schedule of ruling as to the classification of certain unincorporated organizations, the taxpayer is required to submit a copy of the documents establishing or governing the organization.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 50.

Estimated Burden Hours Per Respondent: 3 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 150 hours.

OMB Number: 1545–1393.

Regulation Project Number: EE–14–81 NPRM.

Type of Review: Extension.

Title: Deductions and Reductions in Earnings and Profits (for Accumulated

Profits) With Respect to Certain Foreign Deferred Compensation Plans Maintained by Certain Foreign Corporations or by Foreign Branches of Domestic Corporations.

Description: The regulation provides guidance regarding the limitations on deductions and adjustments to earnings and profits (or accumulated profits) for certain foreign deferred compensation plans. Respondents will be multinational corporations.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 1,250.

Estimated Burden Hours Per Respondent/Recordkeeper: 508 hours.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 634,450 hours.

OMB Number: 1545–1435.

Form Number: EE–45–93 Final.

Type of Review: Extension.

Title: Electronic Filing of Form W–4.

Description: Information is required by the Internal Revenue Service to verify compliance with section 31.3402(f)(2)–1(g)(1), which requires submission to the Service of certain withholding exemption certificates. The affected respondents are employers that choose to make electronic filing of Forms W–4 available to their employees.

Respondents: Business or other for-profit, Not-for-profit institutions, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 2,000.

Estimated Burden Hours Per Respondent: 20 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 40,000 hours.

OMB Number: 1545–1486.

Regulation Project Number: PS–4–96 Final.

Type of Review: Extension.

Title: Sale of Residence From Qualified Personal Residence Trust.

Description: Internal Revenue Code section 202(a)(3) provides special favorable valuation rules for valuing the gift of a personal residence trust. Regulation section 25.2702–5(a)(2) provides that if the trust fails to comply with the requirements contained in the regulations, the trust will be treated as complying if a statement is attached to the gift tax return reporting the gift stating that a proceeding has been commenced to reform the instrument to comply with the requirements of the regulations.

Respondents: Individuals or households.

Estimated Number of Respondents: 200.

Estimated Burden Hours Per Respondent: 3 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 625 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 99–10845 Filed 4–29–99; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 64, No. 83

Friday, April 30, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD01–98–162]

RIN 2115–AE46

Special Local Regulations: Empire State Regatta, Albany, New York

Correction

In rule document 99–10115, beginning on page 19715, in the issue of Thursday, April 22, 1999, make the following correction:

§ 100.104 [Corrected]

On page 19717, in the second column, in § 100.104(c)(7), in the third line, ''vessem'' should read ''vessel''.

[FR Doc. C9–10115 Filed 4–29–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 29508; Special Federal Aviation Regulation (SFAR) No. 84]

RIN 2120–AG78

Prohibition Against Certain Flights Within the Territory and Airspace of Serbia-Montenegro

Correction

In rule document 99–7784, beginning on page 15120, in the issue of Monday, March 29, 1999, make the following corrections:

1. On page 15120, in the second column, under the heading **Small Entity Inquiries**, in the first paragraph, in the sixth line, ''statues'' should read ''statutes''.

2. On the same page, in the same column, under the heading **Background**, in the second paragraph, in the third line from the bottom, ''overslight'' should read ''overflight''.

PART 91 [CORRECTED]

3. On page 15121, in the third column, in Special Federal Aviation Regulation (SFAR) No. 84, paragraph 4, in the 16th line, ''ad'' should read ''and''.

[FR Doc. C9–7784 Filed 4–29–99; 8:45 am]

BILLING CODE 1505–01–D

Friday
April 30, 1999

Part II

Environmental Protection Agency

40 CFR Parts 141 and 142

Revisions to the Unregulated Contaminant Monitoring Regulation for Public Water Systems; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141 and 142

[FRL–6329–3]

RIN 2040–AD15

Revisions to the Unregulated Contaminant Monitoring Regulation for Public Water Systems

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Safe Drinking Water Act (SDWA), as amended in 1996, requires the Environmental Protection Agency (EPA) to establish criteria for a monitoring program for unregulated contaminants and, by August 6, 1999, to publish a list of contaminants to be monitored. To conform to the Amendments, EPA is proposing the Unregulated Contaminant Monitoring Regulation for Public Water Systems (UCMR) to substantially revise the current regulations for unregulated contaminant monitoring.

Under a separate action on January 8, 1999, EPA published a Direct Final Rule suspending the existing monitoring requirements for systems serving 10,000 or fewer persons, effective March 9, 1999. Prior to March 9, 1999, the unregulated contaminant monitoring regulations required public water systems to monitor for unregulated contaminants during one year every five years. EPA promulgated the direct final rule to allow systems serving 10,000 or fewer persons to save the cost of a third monitoring round under the previous regulations, which if performed as scheduled would have overlapped with monitoring requirements expected to be promulgated in the UMCR in August 1999.

This proposed rule includes a new list of contaminants to be monitored, procedures for selecting a national representative sample of public water systems serving 10,000 or fewer persons that will be required to monitor, the frequency and schedule for monitoring, and procedures for placement of the monitoring data in the National Drinking Water Contaminant Occurrence Data Base, as required under section 1445 of SDWA, as amended. The data in the database will be used to identify contaminants for the Drinking Water Contaminant Candidate List (CCL), to support the Administrator's determination of whether or not to develop drinking water standards for a particular contaminant, and in developing standards for the contaminants the Administrator selects.

DATES: The proposed rule is open to public comment until June 14, 1999.

ADDRESSES: Send written comments to the Comment Clerk, docket number W–98–02, U.S. Environmental Protection Agency, Water Docket (MC 4101), 401 M Street, SW, Washington, DC 20460. Please submit an original and three copies of your comments and enclosures (including references). Commenters who want EPA to acknowledge receipt of their comments should enclose a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted.

Comments may also be submitted electronically to ow-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Electronic comments must be identified by the docket number W–98–02. Comments and data will also be accepted on disks in WordPerfect in 5.1 format or ASCII file format. Electronic comments on this proposal may be filed online at many Federal Depository Libraries.

The full record for this proposal has been established under docket number W–98–02 and includes supporting documentation as well as printed, paper versions of electronic comments. The full record is available for inspection from 9 a.m. to 4 p.m. Monday through Friday, excluding legal holidays at the Water Docket, East Tower Basement, USEPA, 401 M Street, SW, Washington DC. For access to docket materials, please call (202) 260–3027 between 9 a.m. and 3:30 p.m, Eastern Time, Monday through Friday, to schedule an appointment.

FOR FURTHER INFORMATION CONTACT: Charles Job, Standards and Risk Management Division, Office of Ground Water and Drinking Water (MC–4607), U.S. Environmental Protection Agency, 401 M Street, SW, Washington DC 20460, (202) 260–7084. General information may also be obtained from the EPA Safe Drinking Water Hotline. Callers within the United States may reach the Hotline at (800) 426–4791. The Hotline is open Monday through Friday, excluding federal holidays, from 9 a.m. to 5:30 p.m. Eastern Time.

SUPPLEMENTARY INFORMATION:

Regional Contacts

I. Anthony De Palma, JFK Federal Bldg., Room 2203, Boston MA 02203, Phone: 617–565–3610.
II. Walter Andrews, 290 Broadway, Room 2432, New York, NY 10007–1866, Phone: 212–637–3880.
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IV. Janine Morris, 345 Courtland Street, NE, Atlanta GA 30365, Phone: 404–562–9480.
V. Kim Harris, 77 West Jackson Blvd., Chicago, IL 60604–3507, Phone: 312–886–4239.
VI. Larry Wright, 1445 Ross Avenue, Dallas, TX 75202, Phone: 214–665–7150.
VII. Stan Calow, 726 Minnesota Ave., Kansas City, KS 66101, Phone: 913–551–7410.
VIII. Rod Glebe, One Denver Place, 999 18th Street, Suite 500, Denver, CO 80202, Phone: 303–312–6627.
IX. Bruce Macler, 75 Hawthorne Street, San Francisco, CA 94105, Phone: 415–744–1884.
X. Larry Worley, 1200 Sixth Avenue, Seattle, WA 98101, Phone: 206–553–1893.

Abbreviations and Acronyms Used in the Preamble and Proposed Rule

2,4-DNT—2,4-dinitrotoluene
2,6-DNT—2,6-dinitrotoluene
4,41′-DDE—degradation product of DDT
Alachlor ESA—alachlor ethanesulfonic acid, a degradation product of alachlor
AOAC—Association of Official Analytical Chemist
ASDWA—Association of State Drinking Water Administrators
ASTM—American Society for Testing and Materials
BGM—Buffalo Green Monkey cells, a specific cell line used to grow viruses
CAS—Chemical Abstract Service
CASRN—Chemical Abstract Service Registry Number
CCL—Contaminant Candidate List
CCR—Consumer Confidence Reports
CERCLA—Comprehensive Environmental Response, Compensation and Liability Act
CFR—Code of Federal Regulations
CFU—Colony forming unit
CFU/mL—Colony forming units per milliliter
CWS—Community water system
DCPA—dimethyl tetrachloroterephthalate, chemical name of the herbicide dacthal
DCPA di- and mono-acid degradates —Degradation products of DCPA
DDE—Degradation product of DDT
DDT—Dichloro diphenyl trichloroethane, a general insecticide
EDL—Estimated detection limit
EPA—Environmental Protection Agency
EPTC—s-ethyl-dipropylthiocarbamate, an herbicide
EPTDS—Entry Point to the Distribution System
FACA—Federal Advisory Committee Act
FTE—Full-time-equivalent
GC—Gas chromatography, a laboratory method
GLI method—Great Lakes Instruments method
GW—Ground water
GWUDI—Ground water under the direct influence of surface water
HLPC—High performance liquid chromatography, a laboratory method
ICR—Information Collection Request
IFRA—Initial regulatory flexibility analysis
IMS—Immunomagnetic separation

IRIS—Integrated Risk Information System
IS—Internal standard
LLE—Liquid/liquid extraction, a laboratory method
MAC—Mycobacterium avium intracellulare
MCL—Maximum contaminant level
MDL—Method detection limit
MRL—Minimum reporting level
MS—Mass spectrometry, a laboratory method
MS—Sample matrix spike
MSD—Matrix spike duplicate
MTBE—Methyl-tert-butyl-ether, a gasoline additive
NAWQA—National Water Quality Assessment Program
NCOD—National Drinking Water Contaminant Occurrence Data Base
NDWAC—National Drinking Water Advisory Council
NERL—National Environmental Research Laboratory
NPS—National Pesticide Survey
NTIS—National Technical Information Service
NTNCWS—Non-transient non-community water system
NTTAA—National Technology Transfer and Advancement Act
OGWDW—Office of Ground Water and Drinking Water
OMB—Office of Management and Budget
PBMS—Performance-Based Measurement System
pCi/L—Picocuries per liter
PCR—Polymerase chain reaction
PWS—Public Water System
PWSF—Public Water System Facility
QA—Quality assurance
QC—Quality control
RDX—Hexahydro-1,3,5-trinitro-1,3,5-triazine
RFA—Regulatory Flexibility Act
RPD—Relative percent difference
RSD—Relative standard deviation
SBREFA—Small Business Regulatory Enforcement Fairness Act
SD—Standard deviation
SDWA—Safe Drinking Water Act
SDWIS—Safe Drinking Water Information System
SDWIS FED—the Federal Safe Drinking Water Information System
SM—Standard Methods
SMF—Standard Compliance Monitoring Framework
SOC—Synthetic organic compound
SPE—Solid phase extraction, a laboratory method
SRF—State Revolving Fund
STORET—Storage and Retrieval System
SW—surface water
TBD—to be determined
TNCWS—Transient non-community water system
UCMR—Unregulated Contaminant Monitoring Regulations/Rule
UCM—Unregulated Contaminant Monitoring
ug/L—Micrograms per liter
UMRA—Unfunded Mandates Reform Act of 1995
USEPA—United States Environmental Protection Agency
UV—Ultraviolet
VOC—volatile organic compound

Preamble Outline

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Potentially Regulated Entities

The regulated entities are public water systems. All large community and non-transient non-community water systems serving more than 10,000 persons would be required to monitor. A community water system means a public water system which serves at least 15 public service connections used by year-round residents or regularly serves at least 25 year-round residents. Non-transient non-community water system means a public water system that is not a community water system and that regularly serves at least 25 of the same persons over 6 months per year. Only a national representative sample of community and non-transient non-community systems serving 10,000 or fewer persons would be required to monitor. Transient non-community systems (i.e., systems that do not regularly serve at least 25 of the same persons over six months per year) would not be required to monitor. States, Territories, and Tribes with primacy to administer the regulatory program for public water systems under the Safe Drinking Water Act, sometimes conduct analyses to measure for contaminants in water samples and would be regulated by this action. Categories and entities that may ultimately be regulated include the following:

Category	Examples of potentially regulated entities	SIC
State, Tribal and Territorial Governments.	States, Territories, and Tribes that analyze water samples on behalf of public water systems required to conduct such analysis; States, Territories, and Tribes that themselves operate community and non-transient non-community water systems required to monitor.	9511
Industry	Private operators of community and non-transient non-community water systems required to monitor	4941
Municipalities	Municipal operators of community and non-transient non-community water systems required to monitor.	9511

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

I. Why the Unregulated Contaminant Monitoring Regulation Is Changing

The current Unregulated Contaminant Monitoring Program operating under the Safe Drinking Water Act (SDWA, the Act) requires public water systems to monitor for unregulated contaminants during one year every five years. Under section 1445(a)(2) of the Act, as amended in 1996, the Environmental Protection Agency (EPA) is required to establish criteria for a monitoring program for unregulated contaminants and, by August 6, 1999, to publish a list of contaminants to be monitored. To conform to the 1996 Amendments, EPA is proposing substantial revisions to the Unregulated Contaminant Monitoring (UCM) Program, currently described in 40 CFR 141.40. The purpose of the Unregulated Contaminant Monitoring Program is to collect occurrence data to help determine which contaminants EPA should regulate based on their concentrations in public water systems and their adverse health effects levels.

This proposed rule will take the place of the regulations currently in 40 CFR 141.35, 141.40, and 142.15(c)(3) and modify § 142.16. The revisions cover the following: (1) The frequency and schedule for monitoring based on public water system (PWS) size, water source, and likelihood of finding the contaminants; (2) a new shorter list of contaminants to be monitored, (3) procedures for selecting and monitoring a national representative sample of public water systems serving 10,000 or fewer people, and (4) procedures for placing the monitoring data in the National Drinking Water Contaminant Occurrence Data Base (NCOD), as required under Section 1445. The data generated by this rule, when adopted, will be used to identify contaminants for the Contaminant Candidate List (CCL), to support the Administrator's determination of whether or not to regulate a contaminant under the drinking water program, and to support the development of drinking water regulations. The proposed revised UCM Program is a cornerstone of the sound science approach to future drinking water regulation, which is one of the aims of the SDWA Amendments.

In a separate action, EPA has published a Direct Final Rule (64 FR 1494, January 8, 1999) which will cancel the existing monitoring requirements for systems serving 10,000 or fewer persons effective January 1, 1999. The Direct Final Rule will modify the existing regulations ahead of this Proposed Rule to revise the existing unregulated contaminant monitoring regulations. The Direct Final Rule's purpose is to allow the systems serving 10,000 or fewer persons to save the cost of a third monitoring round under the existing regulation, which if performed would overlap with monitoring under the proposed revised rule. EPA believes that it has sufficient data from the previous monitoring rounds to make decisions concerning the status of the contaminants on the existing monitoring list (see Table 1).

II. Current Unregulated Contaminant Monitoring

A. Current Program

The current Unregulated Contaminant Monitoring Program was established in the SDWA, as amended in 1986, and implemented by regulation in 1987 (52 FR 25720, July 8, 1987). The program was revised three times thereafter (56 FR 3526, January 30, 1991; 57 FR 22178, May 27, 1992; and 57 FR 31776, July 17, 1992). Under 40 CFR 141.40, public water systems are required to monitor for up to 48 unregulated contaminants and under 40 CFR 141.35, to report monitoring results to the States, or to EPA if a State does not have primacy to administer the State Drinking Water Program. These 48 contaminants are listed in Table 1 of this Preamble, along with their regulatory status. Under 40 CFR 142.15, primacy States must report monitoring results to EPA. Repeat monitoring and reporting are required during one year every 5 years. Systems serving fewer than 150 service connections may make their facilities available for the States to monitor, rather than perform their own monitoring.

B. Status of Unregulated Contaminants on the Current Monitoring List

Based on the results of the current Unregulated Contaminant Monitoring

Program, EPA analyzed each of the 48 contaminants on the current list. The status of the 48 contaminants as a result of that analysis is summarized below in Table 1.

TABLE 1.—LIST AND STATUS OF THE CURRENT UNREGULATED CONTAMINANTS

	In regulation development [1]	On contaminant candidate list [2]	Did not occur at significant levels [3]	Covered by other regulatory action [4]	Did not meet health effects level [5]
Aldicarb	X				
Aldicarb sulfone	X				
Aldicarb sulfoxide	X				
Aldrin		X			
Bromobenzene		X			
Bromochloromethane	X				
Bromodichloromethane	X				
Bromoform	X				
Bromomethane (methyl bromide)		X			
Butachlor			X		
sec-Butylbenzene					X
n-Butylbenzene					X
tert-Butylbenzene					X
Carbaryl			X		
Chlorodibromomethane	X				
Chloroethane	X				
Chloroform	X				
Chloromethane	X				
o-Chlorotoluene			X		
p-Chlorotoluene			X		
Dibromomethane	X				
Dicamba			X		
m-Dichlorobenzene			X		
Dichlorodifluoromethane			X		
1,1-Dichloroethane		X			
2,2-Dichloropropane		X			
1,3-Dichloropropane		X			
1,1-Dichloropropene		X			
1,3-Dichloropropene		X			
Dieldrin		X			
Fluorotrichloromethane			X		
Hexachlorobutadiene		X			
3-Hydroxycarbofuran				X	
Isopropylbenzene			X		
p-Isopropyltoluene		X			
Methomyl			X		
Metolachlor		X			
Metribuzin		X			
Naphthalene		X			
Propachlor			X		
n-Propylbenzene			X		
Sulfate		X			
1,1,1,2-Tetrachloroethane			X		
1,1,2,2-Tetrachloroethane		X			
1,2,3-Trichlorobenzene				X	
1,2,3-Trichloropropane			X		
1,2,4-Trimethylbenzene		X			
1,3,5-Trimethylbenzene					X

[1] In Regulation Development means that EPA is currently working on regulations affecting the contaminant in drinking water.
[2] On Contaminant Candidate List means that the contaminant is on the CCL for EPA to determine whether or not to regulate it in the future.
[3] Did Not Occur at Significant Levels means that unregulated contaminant monitoring results and other data did not indicate widespread occurrence or concentrations that would warrant further action.
[4] Covered By Other Regulatory Action means that the contaminant is addressed through regulation of other contaminants.
[5] Did Not Meet Health Effects Level means that the concentrations reported in unregulated contaminant monitoring results or other data were not at or above health effects levels established by EPA or other organizations that have such health indicators.

III. Proposed Changes in the Unregulated Contaminant Monitoring Program

A. Revised List of Unregulated Contaminants To Be Monitored

1. Criteria for Selecting Contaminants for the UCMR

(a) Revising the Monitoring List

Section 1445(a)(2)(B) requires EPA to list not more than 30 unregulated contaminants to be monitored by public water systems. Today EPA is proposing to use the Contaminant Candidate List (CCL), established under section 1412(b)(1)(B) of SDWA, as the primary basis for selecting contaminants for future monitoring under the UCMR. The criteria used in the CCL for identifying contaminants for which occurrence data are needed are:

(i) Whether sufficient data exist on the occurrence or likely occurrence of the contaminant in drinking water, including production, release, and use to warrant further confirming data; and

(ii) Whether sufficient data exist to indicate the occurrence of the contaminant in two or more States, or in ten or more public water systems.

The other criterion is whether an analytical method exists for the contaminant. The other mechanism for selecting contaminants for UCMR monitoring is through the petition of seven or more State governors to EPA, described below under III.A.2.(c), Modifying the Monitoring List through the Governors' Petition.

The CCL was developed with the advice of the Working Group on Contaminant Occurrence and Selection of the National Drinking Water Advisory Council (NDWAC), formed pursuant to the Federal Advisory Committee Act (FACA). The group developed criteria, adopted by EPA, for deciding which contaminants to include on the CCL.

Criteria for selecting contaminants for the CCL focused on occurrence in water at levels of health concern, or indications of occurrence (production or release, coupled with contaminant properties). EPA used health effects concentrations to determine the significance of occurrence levels. When developing the CCL, EPA used the previous unregulated contaminant monitoring data from States as one of the many sources of occurrence data. The term ''occurrence'' as used here means the measured observation of a substance in drinking water or potential source of drinking water. The 1998 CCL contains 50 chemical contaminants and 10 microbiological contaminants. The process for developing the CCL is described in more detail in the March 2, 1998, **Federal Register** containing the list (63 FR 10273).

When EPA began the process of choosing contaminants for the CCL, EPA and NDWAC experts worked from a compendium of 8 lists containing approximately 262 chemical contaminants. The lists used in this process included the 1991 Drinking Water Priority List, health advisories, Integrated Risk Information System, Non-Target Analytes in Public Water Supply Samples, Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) Priority List, stakeholder responses, Toxic Release Inventory, and pesticides identified by the Office of Pesticide Programs. Contaminants not among the 262 chemical contaminants initially identified were not considered in developing the CCL.

Table 2 lists all of the contaminants on the CCL and indicates whether they are priorities for consideration under three categories—regulation, research (health, treatment, and analytical methods), and occurrence. (Contaminants may appear in more than one column of Table 2.) The groupings in Table 2 are based on current (1998) information, and some movement of contaminants between categories can be expected as more information is evaluated and analyzed. In Table 2, ''Regulation Determination Priorities'' means that for the contaminants listed, EPA believes it has or will soon have sufficient data to determine whether or not to regulate these contaminants. ''Research Priorities'' means that before EPA could make any regulatory determination, EPA would need health effects data, treatment technology results, or analytical methods development to test for the contaminants. ''Occurrence Priorities'' indicates that EPA needs data to determine whether the contaminant occurs or is likely to occur in drinking water of public water systems. The ''Occurrence Priorities'' identify the contaminants that EPA is focusing on in the Unregulated Contaminant Monitoring Program proposed today. EPA believes that the purpose of this program is to compile data concerning the occurrence of unregulated contaminants in drinking water so that, together with health effects information, EPA can determine which unregulated contaminants are priorities for future regulation.

TABLE 2.—CONTAMINANT CANDIDATE LIST (CCL)

Regulatory determination priorities	Research priorities			Occurrence priorities
	Health research	Treatment research	Analytical methods research	
Acanthamoeba (guidance) 1,1,2,2-tetrachloroethane 1,1-dichloroethane 1,2,4-trimethylbenzene 1,3-dichloropropene 2,2-dichloropropane Aldrin Boron Bromobenzene Dieldrin Hexachlorobutadiene p-Isopropyltoluene Manganese Metolachlor Metribuzin Naphthalene Organotins Triazines and degradation products (incl., but not limited to Cyanazine and atrazine-desethyl) Sulfate Vanadium	Aeromonas hydrophila Cyanobacteria (Blue-green algae), other freshwater algae, and their toxins Caliciviruses Helicobacter pylori Microsporidia Mycobacterium avium intercellulare (MAC) 1,1-dichloropropene 1,3-dichloropropane Aluminum DCPA mono-acid and di-acid degradates Methyl bromide MTBE Perchlorate Sodium (guidance)	Adenoviruses Aeromonas hydrophila Cyanobacteria (Blue-green algae), other freshwater algae, and their toxins Caliciviruses Coxsackieviruses (ICR data) Echoviruses (ICR data) Helicobacter pylori Microsporidia Mycobacterium avium intracellulare (MAC) Aluminum MTBE Perchlorate	Adenoviruses Cyanobacteria (Blue-green algae), other freshwater algae, and their toxins Caliciviruses Helicobacter pylori Microsporidia 1,2-diphenylhydrazine 2,4,6-trichlorophenol 2,4-dichlorophenol 2,4-dinitrophenol 2-methyl-Phenol Acetochlor Alachlor ESA Fonofos Perchlorate RDX	Adenoviruses Aeromonas hydrophila Cyanobacteria (Blue-green algae), other freshwater algae, and their toxins Caliciviruses Coxsackieviruses (ICR data) Echoviruses (ICR data) Helicobacter pylori Microsporidia 1,2-diphenylhydrazine 2,4,6-trichlorophenol 2,4-dichlorophenol 2,4-dinitrophenol 2,4-dinitrotoluene 2,6-dinitrotoluene 2-methyl-phenol Alachlor ESA Acetochlor DCPA mono-acid and di-acid degradates DDE Diazinon Disulfoton Diuron EPTC Fonofos Linuron Molinate MTBE Nitrobenzene Perchlorate Prometon RDX Terbacil Terbufos

The CCL lists 26 chemical and 8 microbiological contaminants as occurrence priorities because additional data on their occurrence in drinking water are needed to help decide whether or not to regulate them. Today's proposal does not address the two contaminants identified in the preparation of the CCL as highly localized in occurrence: Perchlorate and RDX (hexahydro-1,3,5-trinitro-1,3,5-triazine). During the process of identifying contaminants for the CCL and subsequently for the UCMR, perchlorate had only been detected at a few sites in the western U.S. However, perchlorate is increasingly being detected in other parts of the country. A total of nine States have detected perchlorate and as monitoring increases, other States are likely to detect it. EPA seeks public comment on whether perchlorate and RDX should be included in the UCM List.

For the remaining 32 contaminants on the CCL Occurrence Priorities List, EPA has evaluated the availability of analytical methods published by EPA or voluntary consensus standards organizations such as the American Society for Testing and Materials (ASTM) and Standard Methods (SM). In addition, EPA prioritized analytical methods development activities for those compounds and microbiological parameters for which suitable analytical methods are not currently available. As listed in List 1 of Table 3 below, EPA identified 10 organic chemical contaminants and one microbiological contaminant for which analytic methods are now available. List 1 contaminants are those that are proposed today to be monitored beginning on the effective date of this rule, as explained in 2., List of Contaminants to be Monitored. List 2 of Table 3 lists 14 organic chemical contaminants for which methods are being refined. List 3 of Table 3 identifies seven microbiological contaminants for which methods are being researched. Contaminants on Lists 2 and 3 are not proposed to be monitored until EPA promulgates revisions to this rule to specify analytical methods and related sampling requirements.

In addition, EPA requests comment on the addition to the unregulated contaminant monitoring List 1 of two naturally occurring radionuclides with health concerns at low levels, Lead-210 (Pb-210), and Polonium-210 (Po-210). Both nuclides are in the uranium decay series along with radium-226 and radon-222. Lead-210 with a half life of 22 years, and one of its progeny, polonium-210, with a half life of 138 days, have been found in drinking water. EPA is aware of the occurrence of these contaminant in shallow aquifers in Florida (Harada, et al., 1989; Upchurch, 1991), and in at least two other states. Because of potential occurrence and consequent health risks, EPA is considering adding these contaminants to the monitoring list.

(b) Regulatory Options

EPA proposes in § 141.40(a)(3) that the contaminants listed in Lists 1–3 be used for the UCMR program monitoring list and be categorized based on the availability of analytical methods. List 1 is the basis for ''Assessment Monitoring.'' EPA proposes that ''Assessment Monitoring'' occur at all 2,774 large community and non-transient non-community systems serving more than 10,000 persons and a representative sample of approximately 800 systems serving less than 10,000 or fewer persons in State Monitoring Plans. List 2 will be the basis of a ''Screening Survey'' of approximately 300 of the systems required to do Assessment Monitoring. List 3 will be used for ''Pre-Screen Testing'' at up to 200 systems selected because of potential vulnerability to the specific contaminants. This monitoring approach is described in detail under III.C. ''Type of Monitoring Required of Public Water Systems Based on Listing Group.'' Assessment Monitoring would include only those contaminants in List 1 for which analytical methods are included in this regulation. Assessment Monitoring (and associated ''index site'' monitoring described below) is the only monitoring that would be required by today's proposal. This includes contaminants for which EPA expects to have developed reference analytical methods by the year 2000.

For contaminants in List 2 for which analytical methods are developed by the time of initial monitoring in 2001, EPA would amend this rule to require the Screening Survey to be conducted at selected systems. For those contaminants in List 2 and List 3 that do not have well developed methods by the time of initial monitoring in 2001, EPA would issue a revision to this regulation to activate the contaminants at the time when the methods are considered implementable, up to the limit of 30 contaminants to be monitored within the five-year contaminant listing cycle. Monitoring for those contaminants would then begin at a specified effective date in that prospective regulation. Therefore, monitoring of contaminants on Lists 2 and 3 would not be required by today's proposal and would only occur when EPA publishes a revision to this regulation specifying the methods to be used and the dates for monitoring to begin, at which time EPA would request public comment on the methods. EPA solicits public comment on the selection of these contaminants using the CCL priorities for contaminants needing occurrence data before regulatory determination and the activation for monitoring based on methods availability.

EPA believes that the CCL process already uses the best available information on contaminants of concern and emerging contaminants that may need regulation. SDWA section 1445 (a)(2)(B)(ii) provides for the Governors of seven or more states to petition the Agency to add contaminants to the Monitoring List. This petition process allows for the flexibility to include contaminants that are emerging as concerns between the five-year listing cycles. EPA, however, does request public comment on other criteria that the Agency may use to include contaminants of concern on the UCM List that are not on the CCL and may not be identified through a Governors' Petition, such as Polonium-210, noted above.

(c) Analytical Methods Applicable to the Monitoring List

The Monitoring List is developed around the availability to analytical methods for the listed contaminants and the level of information available for them at this time. The discussion below highlights analytical methods considerations in listing the contaminants for monitoring. Only the contaminants identified on List 1 will be monitored as a result of today's proposal. Contaminants on Lists 2 and 3 below are proposed for the Unregulated Contaminant Monitoring List, but will not be activated for monitoring until EPA believes that the analytical methods can be applied to obtain reliable results. At that time, EPA will propose List 2 and 3 contaminants for monitoring.

(i) Chemical Analytical Methods

The ability to correctly identify a chemical contaminant is directly related to the type of chemical and the analytical method used. Compounds such as disinfection byproducts are far less likely to be misidentified than pesticides because they are typically present at relatively high concentrations in disinfected waters, while pesticides are much less likely to occur, or occur at lower concentrations. The analytical method selected will determine the accuracy of the qualitative identification. In general, the most reliable qualitative identifications will come from methods that use mass spectral data for contaminant identification. However, these methods are typically less sensitive than methods that rely on less selective detectors.

Before EPA establishes a Maximum Contaminant Level (MCL), the Agency relies on a analytical method suitable for routine monitoring. It is likely that analytical methods in general use by laboratories performing drinking water analyses may not exist for some of the compounds proposed to be measured in the UCMR program. Complex analytical methods or methods requiring special handling often require more experienced laboratories than the laboratories performing routine compliance monitoring. Even when analytical methods that are in general use by analytical laboratories are available, limiting the analyses to a small number of laboratories operating under strict quality control requirements improves the precision and accuracy of the analyses, thereby increasing the usefulness of the data.

The option favored by many stakeholders and proposed today by EPA for conducting the chemical laboratory analyses is the following:

For PWSs serving more than 10,000 people, the PWS would be responsible for sample collection and analyses for unregulated contaminant Assessment Monitoring. This monitoring could be conducted at the same time as the required compliance monitoring. For unregulated contaminant Assessment Monitoring, however, EPA is proposing in § 141.40(a)(3) to require quality control procedures for both sampling and testing to ensure that the data collected under this regulation are of sufficient quality to meet the requirements of the related regulatory decisions. Thus, today's proposal specifies the analytical methods and procedures to be used in obtaining these data. The sampling and associated quality control requirements cover time frame, frequency, sample collection and submission, and review and reporting of results. The laboratory testing quality control requirements address use of a certified laboratory, sample collection/preservation, analytical methods, method detection limit, calibration, quality control sample, method performance test, detection confirmation, and reporting.

The purpose for these quality control requirements is to ensure that since EPA will only be able to obtain results from 3,574 systems (2,774 large systems and a representative sample of 800 systems from 65,600 systems serving 10,000 or fewer persons), the Agency obtains the most reliable data possible. EPA will provide a guidance manual to further explain these quality control measures that would need to be performed for all unregulated contaminant monitoring. For systems that are part of State Plans for representative samples, the sampling guidance, ''UCMR Guidance for Operators of Public Water Systems

Serving 10,000 or Fewer Persons'' is available. Drafts of the guidance and manual ''UCMR Analytical Methods and Quality Control Manual'' are available for public comment with this proposed rule through the EPA Safe Drinking Water Hotline at 800–426–4791, or through EPA's Office of Ground Water and Drinking Water Homepage at www.epa.gov/ogwdw. EPA would apply these same testing and quality control procedures to the samples of all monitored systems. These proposed procedures are discussed in more detail in section 5, Monitoring Requirements under the Proposed UCMR.

EPA is specifying the use of certain analytical methods that are currently available for UCM (see Table 5, Unregulated Contaminant Monitoring List, III A.2(a) column 3). While these methods are routinely used by commercial and public water system laboratories (including some that are currently used for compliance monitoring), they have not been routinely used for the contaminants on the UCM List. Note that, as shown in § 141.40(a)(3), Table 1, methods other than those that EPA has developed may be approved for use but quality control procedures must also be followed, as specified in § 141.40(a)(4) and (5), and appendix A. EPA is requesting comments on the methods which have been specified for the contaminants on the UCM List.

The data quality needs associated with drinking water chemical compliance monitoring and the evaluation and use of occurrence data are different. The purpose of compliance monitoring is to determine whether a compound is present currently in the drinking water above the established MCL. However, the purpose of the UCM is to obtain occurrence data to support future regulatory decisions. The data required to make regulatory decisions must be of high quality. All analytical methods are subject to false negatives (not detecting a contaminant when it is present), false positives (either incorrectly identifying or detecting a contaminant, or introducing a contaminant into a sample when it is not present), and errors in the accuracy and precision of quantitative results.

The control of false negatives is important for both compliance and occurrence monitoring. However, using analytical methods which inherently have fewer false positives or requiring quality control elements that control false positives, is more critical in occurrence than in compliance monitoring. There are much greater incentives inherent in compliance monitoring (e.g., the possibility of enforcement actions, the potential need to install expensive treatment systems, etc., to confirm that the contaminant detected is indeed present) than in occurrence data gathering.

For occurrence monitoring, the precision of the analyses is more critical than in compliance monitoring. Unless the concentration of the contaminant closely approaches the MCL, even relatively imprecise data can be used to ensure the data user that the compound is not present at a concentration above the MCL. However, the usefulness of occurrence data is much more dependent upon the precision of the measurement. The ability to perform meaningful statistical analysis, e.g., to determine the percentage of waters in the United States that have compound X at or above the minimum reporting level (MRL), or to determine whether compound X occurs more frequently or at higher concentrations in one type of water or geographical region of the country, is directly dependent on the precision of the data.

The Agency has evaluated analytical methods developed by both EPA and other voluntary consensus standards organizations that publish analytical methods, such as Standard Methods and the American Society for Testing and Materials. The Agency has not approved analytical methods published only in analytical journals or methods that use techniques that cannot routinely be used by all drinking water analysis laboratories (e.g., acid, base/neutral fractionation, or packed column gas chromatography). Because control of ''false negatives'' is essential to the quality of the data collected under this proposed regulation, documentation of the contaminants' stability under the sample and extract holding conditions specified in the analytical method were also evaluated.

For the compounds selected to be included in this regulation, the following summary, Table 3, Status of Analytical Methods for Chemical Contaminants on the UCM List, presents a brief assessment of methods availability for each chemical contaminant. EPA requests public comment on this assessment of methods availability.

TABLE 3.—STATUS OF ANALYTICAL METHODS FOR CHEMICAL CONTAMINANTS ON THE UCM LIST

List 1—Organic chemical contaminant	CAS No.	Analytical Methods	Status of availability
2,4-dinitrotoluene	121–14–2	EPA 525.2	Method is adequate for monitoring.
2,6-dinitrotoluene	606–20–2	EPA 525.2	Method is adequate for monitoring.
DCPA mono acid degradates.	887–54–7	EPA 515.1 EPA 515.2 D5317–93 AOAC 992.32	No method is available to measure the mono and di acid forms separately. All of the approved methods identify total mono and di acid forms.
DCPA di acid degradates	2136–79–0	EPA 515.1 EPA 515.2 D5317–93 AOAC 992.32	No method is available to measure the mono and di acid forms separately. All of the approved methods identify total mono and di acid forms.
4,4′-DDE	72–55–9	EPA 508 EPA 508.1 EPA 525.2 D5812–96 AOAC 990.06	Methods are adequate for monitoring.
EPTC	759–94–4	EPA 507 EPA 525.2 D5475–93 AOAC 991.07	Methods are adequate for monitoring.

TABLE 3.—STATUS OF ANALYTICAL METHODS FOR CHEMICAL CONTAMINANTS ON THE UCM LIST—Continued

List 1—Organic chemical contaminant	CAS No.	Analytical Methods	Status of availability
Molinate	2212–67–1	EPA 507 EPA 525.2 D5475–93 AOAC 991.07	Methods are adequate for monitoring.
MTBE	1634–04–4	EPA 524.2 D5790–95 SM6210D	Methods are adequate for monitoring.
Nitrobenzene	98–95–3	EPA 524.2 D5790–95 SM6210D	Methods are adequate for monitoring.
Terbacil	5902–51–2	EPA 507 EPA 525.2 D5475–93 AOAC 991.07	Methods are adequate for monitoring.

List 2—Organic chemical contaminant	CAS No.	Availability of analytical methods	Status of availability
1,2-diphenylhydrazine	122–66–7	In development	Some methods evaluated but inadequate. Priority for analytical method development. Anticipate that contaminant will be added to EPA Method 525.2.
2,4,6-trichlorophenol	88–06–2	In development	EPA Method 552 evaluated but subject to false positives from interferences of the derivitized byproduct of the contaminant. Anticipate that contaminant will be included in a new solid phase extraction/GC/MS method currently under development.
2,4-dichlorophenol	120–83–2	In development	EPA Method 552 evaluated but subject to quantitative uncertainty due to inadequate derivatization of the contaminant. Anticipate that contaminant will be included in a new solid phase extraction/GC/MS method currently under development.
2,4-dinitrophenol	51–28–5	In development	Some methods evaluated but inadequate. Anticipate that contaminant will be included in a new solid phase extraction/GC/MS method currently under development.
2-methy -phenol	95–48–7	In development	Some methods evaluated but inadequate. Anticipate that contaminant will be included in a new solid phase extraction/GC/MS method currently under development.
Alachlor ESA and degradation byproducts of acetanilide pesticides.		To be determined	EPA is evaluating which specific contaminants will be included within this group of compounds. Analytical methods will be determined for the targeted contaminants.
Acetochlor	34256–82–1	In development	No adequate method available. Anticipate that this compound can be added to the scope of EPA Method 525.2
Diazinon	333–41–5	In development	Diazinon is listed as an contaminant in several EPA and voluntary consensus standard organization methods but it is subject to rapid aqueous degradation. Preservation research currently being conducted to develop preservation technique that would permit adding this compound to EPA Method 525.2.
Disulfoton	298–04–4	In development	Disulfoton is listed as an contaminant in several EPA and voluntary consensus standard organization methods but it is subject to rapid aqueous degradation. Preservation research currently be conducted to develop preservation technique that would permit adding this compound to EPA Method 525.2.
Diuron	330–54–1	In development	While this compound is included in the scope of NPS Method 4 (LLE/HLPC/UV) and EPA Method 553(SPE/HPLC/MS), these methods are not adequate for this monitoring. Anticipate that this compound can be included in a new SPE/HPLC/UV method currently being developed.
Fonofos	944–22–9	In development	Fonofos is listed as an contaminant in several EPA and voluntary consensus standard organization methods but it is subject to rapid aqueous degradation. Preservation research is currently being conducted to develop preservation technique that would permit adding this compound to EPA Method 525.2.
Linuron	330–55–2	In development	While this compound is included in the scope of NPS Method 4 (LLE/HLPC/UV) and EPA Method 553(SPE/HPLC/MS), these methods are not adequate for this monitoring. Anticipate that this compound can be included in a new SPE/HPLC/UV method currently being developed.
Prometon	1610–18–0	In development	Prometon is listed as an contaminant in several EPA and voluntary consensus standard organization methods but it is subject to rapid aqueous degradation in non-acidified samples and is not readily extracted in acidified samples. Preservation research is currently being conducted to add neutralizing the pH of acidified samples just prior to extraction. This would permit adding this compound to EPA Method 525.2.

List 2—Organic chemical contaminant	CAS No. #	Availability of analytical methods	Status of availability
Terbufos	13071–79–9	In development	Terbufos is listed as an contaminant in several EPA and voluntary consensus standard organization methods but it is subject to rapid aqueous degradation. Preservation research is currently being conducted to develop a preservation technique that would permit adding this compound to EPA Method 525.2.

(ii) Microbiological Analytical Methods

The discussion of data quality for chemical analytical methods will also apply to microbiological testing when analytical methods are developed for CCL microorganisms. When microorganisms were proposed for the CCL, EPA recognized that analytical methods were not well developed for the majority of them. Because of the lack of available analytical methods, some of the CCL microorganisms were grouped either into one category where sufficient information was available about methodologies to consider regulating them, or another category where more research, including research on detection methods and occurrence, was needed. At the present time, *Aeromonas* is the only one of these microorganisms for which more occurrence data are needed that also has an analytical method that is likely to be sufficiently developed for monitoring in time for implementation in the first round of Assessment Monitoring, List 1, under this proposed program. Three other microorganisms have methods available, but EPA is presently refining these methods. These microorganisms may be candidates for the Screening Survey if methods development proceeds expeditiously (§ 141.40(a)(3), Table 1, List 2), but are currently identified for Pre-Screen Testing (Table 1, List 3). The remaining four microorganisms currently lack satisfactory methods and will be evaluated for Pre-Screen Testing.

Several microorganisms on the CCL are actually groups of microorganism taxa. In some cases, the taxa have so many members that, given the limited resources available for UCMR monitoring, EPA may have to prioritize which strains, species, or serotypes are the most important to consider and target for monitoring or further study. Decisions will have to be made on the basis of health risk, disinfection resistance, occurrence in water, and other factors. To address the need to prioritize which microorganisms should be targeted for monitoring, EPA's Office of Research and Development is assisting the Office of Ground Water and Drinking Water in establishing a research program for health effects, treatment and analytical methods. EPA is requesting public comment on the assessment of methods availability and related issues presented below in Table 4.

TABLE 4.—STATUS OF ANALYTICAL METHODS FOR MICROBIOLOGICAL CONTAMINANTS ON THE UCM LIST

List 1—Microbiological contaminant	Availability of analytical method	Status of availability
Aeromonas hydrophila	Analytical method likely to be available for monitoring.	Current modification and evaluation of a published membrane filtration method (Havelaar et al., 1987) indicates that this method will be suitable for the monitoring program.
List 3—Microbiological contaminant		
Cyanobacteria (blue-green algae, other freshwater algae and their toxins).	Methods available but not standardized.	Methods are available for counting cyanobacteria but new, standardized methods are needed for direct counts of targeted species with filtration methods or a counting chamber. Standardized analytical methods are also needed to detect the more important cyanobacterial toxins.
Echoviruses	Methods available but not standardized.	With care to control overgrowths, echoviruses can be cultured on BGM cells and detected by ICR method but need methods such as serological typing to distinguish from other viruses. Cost of cell culture assays plus serotyping can be high. PCR methods, which are not available, are subject to interferences and do not demonstrate infectivity.
Coxsackieviruses	Methods available but not standardized.	Group B coxsackieviruses are easy to grow in tissue culture but group A coxsackieviruses are variable. Culturable coxsackieviruses can be detected with the ICR method but serotyping is needed to distinguish coxsackie from other viruses. Other detection methods such as immunoassay or PCR do not exist. New, standardized methods are needed.
Helicobacter pylori	No method currently available	Helicobacter pylori is difficult to grow due to slow growth and the need for a low oxygen environment. No selective medium exist that will discriminate H. pylori from background bacteria. A culturable method that demonstrates viability is preferred. Methods are needed for selective growth and identification. IMS has been used to concentrate Helicobacter pylori. PCR methods have been used but are not preferred due to interferences and the inability to demonstrate viability.

TABLE 4.—STATUS OF ANALYTICAL METHODS FOR MICROBIOLOGICAL CONTAMINANTS ON THE UCM LIST—Continued

List 1—Microbiological contaminant	Availability of analytical method	Status of availability
Microsporidia	No method currently available	No methods are available for the monitoring of the two species of human microspordia which have a waterborne route of transmission (*Enterocytozoon bienuesi* and *Septata intestinalis*). Oocysts could possibly be detected by methods similar to those being developed for *Cryptosporidium*. Potential methods may utilize water filtration, clean-up with immunomagnetic separation (IMS) and detection using microscopy with either fluorescent antibody or gene probe procedures. Due to the small size of microsporidia, problems could be encountered during filtration.
Adenoviruses	No method currently available	Adenoviruses serotypes 1 to 39 can be grown in tissue culture but enteric adenoviruses 40 to 41 are difficult to grow. Several selective tissue culture methods and detection methods have been reported. A selective, standardized method is needed for monitoring. PCR methods are not preferred because of interferences and inability to demonstrate infectivity.
Caliciviruses	No method currently available	No tissue culture methods exist for the two caliciviruses on the CCL (Norwalk and Snow Mountain). No sensitive or fully developed detection methods exist. PCR methods are not preferred due to interferences and the inability to demonstrate infectivity.

(d) Screening Methods

SDWA section 1445(i) requires EPA to review new analytical methods that may be used for regulated contaminants screening and analysis. After this review, EPA may approve such methods that are deemed ''more accurate or cost-effective than established reference methods for use in compliance monitoring.'' Section 1445(a)(2)(G) also allows States to use screening methods approved by the Administrator for unregulated contaminant monitoring. These methods are expected to provide flexibility in compliance monitoring to water systems and laboratories performing analysis on behalf on these systems. They are expected to be ''better and/or faster'' than existing analytical methods. EPA is developing a framework for the use of screening procedures for monitoring drinking water contaminants, and determining how the Agency will approve or recommend screening procedures for specific contaminants.

2. List of Contaminants To Be Monitored

(a) Proposed Monitoring List

Table 5, Unregulated Contaminant Monitoring List (Proposed), presents EPA's proposal for the initial list of unregulated contaminants for monitoring under section 1445(a)(2)(B)(i). The monitoring program that EPA proposes for these contaminants is a three-tiered approach based on the availability of information about each contaminant and the availability of analytical methods for each contaminant. This approach is described in section C., Type of Monitoring Required of Public Water Systems Based on Listing Group. The proposed monitoring program divides the listed unregulated contaminants into three lists: List 1, for which Assessment Monitoring will be required, List 2, designated for the Screening Survey; and List 3, designated for Pre-screen Testing. Today's proposed regulation only requires Assessment Monitoring for List 1 contaminants beginning on the proposed effective date of January 1, 2001. The monitoring for contaminants on Lists 2 and 3 will only be required after EPA promulgates further rules.

EPA proposes requiring Assessment Monitoring for those contaminants for which methods exist at the time this regulation is promulgated; as a result, some contaminants from List 2 may move to List 1 if EPA considers their methods reliable by promulgation of the final regulation. Also, by future rulemaking, EPA plans to implement the Screening Survey (List 2) monitoring in groups or batches of contaminants, rather than one contaminant at a time, to minimize sampling and testing costs since some of the contaminants may be tested by the same method. EPA proposes to take a similar approach with the contaminants in the Pre-Screen Testing (List 3) category. EPA plans to require, through future rulemaking Pre-Screen Testing for contaminants for which EPA needs to determine that new analytical methods can measure their existence in locations most likely to be found. All analytical methods for contaminants on Lists 2 and 3 would be peer reviewed, following EPA's policy for peer review, before the Agency proposes regulations which would require public water systems to monitor for them. EPA is seeking comment on the approach of a three-tiered monitoring program for unregulated contaminants and on the proposed list of contaminants to be monitored.

In Table 5, List 1 contaminants, for Assessment Monitoring, are organic chemicals and one microbiological contaminant for which analytical methods capable of generating the quantity and quality of data required under the UCMR are currently available, or expected to be available by promulgation of the final rule (August 1999). Monitoring for these contaminants would be required under today's proposed UCMR. These contaminants are in today's proposed rule, § 141.40(a)(3), Table 1, Unregulated Contaminant Monitoring List, List 1.

List 2 contaminants (all organic chemicals, at this time), contaminants for the Screening Survey, are those for which EPA is currently refining analytical methods. Development of these methods should be sufficient for a Screening Survey to be conducted in the first three years of the listing cycle, but may occur in the later years of the cycle. If methods are available for any of these contaminants before promulgation of the final rule, they will be added to Assessment Monitoring, List 1. These contaminants are characterized in today's proposed rule at Table 1, Unregulated Contaminant Monitoring List, List 2.

List 3 contaminants (all microbiological contaminants, at this time), contaminants for Pre-screen Testing, are those for which EPA has begun or shortly will begin analytical methods development, but completion of those efforts is not expected prior to the Assessment Monitoring or Screening Survey required under implementation

of this regulation. Instead, these contaminants would be tested for in Pre-Screen Testing. These contaminants are in today's proposed rule at § 141.40(a)(3) as Table 1, Unregulated Contaminant Monitoring List, List 3.

The column headings of Table 5 include:

1—Chemical or microbiological contaminant: the name of the contaminants to be analyzed.

2—CAS No. (Chemical Abstract Service Number): a unique number identifying the chemical contaminants.

3—Analytical Methods: method numbers identifying the methods that could be used to test the contaminants.

4—Minimum Reporting Level: the value and unit of measure at or above which the concentration or density of the contaminant must be measured using the Approved Analytical Methods.

5—Sampling Location: the locations within a PWS at which samples must be collected.

6—Date Monitoring to Begin: The years during which the sampling and testing are to occur for the indicated contaminant.

TABLE 5.—UNREGULATED CONTAMINANT MONITORING LIST (PROPOSED)

1—Contaminant	2—CAS identification No.	3—Analytical methods	4—Minimum reporting level	5—Sampling location	6—Date monitoring to begin
List 1—Assessment Monitoring: Organic Chemical Contaminants					
2,4-dinitrotoluene	121–14–2	EPA 525.2 [a]	2.4 ug/L [e]	EPTDS [f]	2001–2003
2,6-dinitrotoluene	606–20–2	EPA 525.2 [a]	2.0 ug/L [e]	EPTDS [f]	2001–2003
DCPA mono acid degradate	887–54–7	EPA 515.1 [a] EPA 515.2 [a] 5317–93 [b] AOAC 992.32 [c]	1.0 ug/L [e]	EPTDS [f]	2001–2003
DCPA di acid degradate	2136–79–0	EPA 515.1 [a] EPA 515.2 [a] D5317–93 [b] AOAC 992.32 [c]	1.0 ug/L [e]	EPTDS [f]	2001–2003
4,4'-DDE	72–55–9	EPA 508 [a] EPA 508.1 [a] EPA 525.2 [a] D5812–96 [b]	0.75 ug/L [e]	EPTDS [f]	2001–2003
EPTC	759–94–4	EPA 507 [a]	1.2 ug/L [e]	EPTDS [f]	2001–2003
Molinate	2212–67–1	EPA 507 [a] EPA 525.2 [a] D5475–93 [b] AOAC 991.07 [c]	0.87 ug/L [e]	EPTDS [f]	2001–2003
MTBE	1634–04–4	EPA 524.2 [a] 5790–95 [b] SM6210D [d]	5.0 ug/L [g]	EPTDS [f]	2001–2003
Nitrobenzene	98–95–3	EPA 524.2 [a] D5790–95 [b] SM6210D [d]	12 ug/L [g]	EPTDS [f]	2001–2003
Terbacil	5902–51–2	EPA 507 [a] EPA 525.2 [a] 5475–93 [b] AOAC 991.07 [c]	23 ug/L [e]	EPTDS [f]	2001–2003
List 1—Assessment Monitoring: Microbiological Contaminants					
Aeromonas Hydrophila	Reserved [h]	Membrane filter, in review	1 colony forming unit	(1) Near end of distribution line with longest residence time; (2) at a representative site in the distribution system	2001–2003

Chemical contaminant	CAS identification No.	Anticipated analytical methods	Minimum reporting level [e]	Sampling location
List 2—Screening Survey: Organic Chemical Contaminants (To Be Sampled After Notice of Analytical Methods Availability)				
1,2-diphenylhydrazine	122–66–7	EPA 525.2 [i]	TBD [h]	EPTDS [f]
2-methyl-phenol	95–48–7	SPE/GC/MS [l]	TBD [h]	EPTDS [f]
2,4-dichlorophenol	120–83–2	SPE/GC/MS [l]	TBD [h]	EPTDS [f]
2,4-dinitrophenol	51–28–5	SPE/GC/MS [l]	TBD [h]	EPTDS [f]
2,4,6-trichlorophenol	88–06–2	SPE/GC/MS [l]	TBD [h]	EPTDS [f]
Acetochlor	34256–82–1	EPA 525.2 [i]	TBD [h]	EPTDS [f]
Alachlor ESA		TBD [h]	TBD [h]	EPTDS [f]
Diazinon	333–41–5	EPA 525.2 [k]	TBD [h]	EPTDS [f]
			TBD [h]	EPTDS [f]
Disulfoton	298–04–4	EPA 525.2 [k]		

Chemical contaminant	CAS identification No.	Anticipated analytical methods	Minimum reporting level [e]	Sampling location
Diuron	330–54–1	SPE/HPLC/UV [j]	TBD [h]	EPTDS [f]
			TBD [h]	EPTDS [f]
Fonofos	944–22–9	EPA 525.2 [i]		
Linuron	330–55–2	SPE/HPLC/UV [j]	TBD [h]	EPTDS [f]
Prometon	1610–18–0	EPA 525.2 [k]	TBD [h]	EPTDS [f]
			TBD [h]	EPTDS [f]
Terbufos	13071–79–9	EPA 525.2 [k]		

[a] The version of the EPA methods being approved will be dependent upon the status of the approval of new versions for compliance monitoring. If appropriate regulations approving new versions of EPA compliance monitoring methods are completed prior to the promulgation of this regulation, the following versions of the above methods will be approved. *Methods for the Determination of Organic Compounds in Drinking Water—Supplement III,* EPA–600/R–95–131, August 1995. NTIS PB95–261616. Copies are also available from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161. The toll-free number is 800–553–6847.

If new regulations changing the versions of methods being approved for compliance monitoring are not completed prior to the promulgation of this regulation, then the following versions of the EPA methods are being approved for monitoring under the Unregulated Contaminant Monitoring Rule. Methods 507, 508, and 515.1 are in *Methods for the Determination of Organic Compounds in Drinking Water,* EPA–600/4–88–039, December 1988, Revised, July 1991. Methods 515.2 and 524.2 are in *Methods for the Determination of Organic Compounds in Drinking Water—Supplement II,* EPA/600/R–92/129, August 1992. These documents are available from the National Technical Information Service, (NTIS) U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161 (800) 553–6847. Methods 508.1 and 525.2 are available from US EPA NERL—Cincinnati, Cincinnati, Ohio 45268, (513) 569–7586.

[b] *Annual Book of ASTM Standards,* 1996 and 1998, Vol. 11.02, American Society for Testing and Materials. Method D5812–96 is located in the *Annual Book of ASTM Standards,* 1998, Vol. 11.02. Methods D5790–95, D5475–93, and D5317–93 are located in the *Annual Book of ASTM Standards,* 1996 and 1998, Vol 11.02. Copies may be obtained from the American Society for Testing and Materials, 101 Barr Harbor Drive, West Conshohocken, PA 19428.

[c] Official Methods of Analysis of AOAC (Association of Official Analytical Chemist) International, Sixteenth Edition, 4th Revision, 1998, Volume I, AOAC International, First Union National Bank Lockbox, PO Box 75198, Baltimore, MD 21275–5198. 1–800–379–2622.

[d] 18th and 19th editions of *Standard Methods for the Examination of Water and Wastewater,* 1992 and 1995, American Public Health Association; either edition may be used. Copies may be obtained from the American Public Health Association, 1015 Fifteenth Street NW, Washington, DC 20005.

[e] Minimum Reporting Level determined by multiplying by 10 the least sensitive method's minimum detection limit (MDL=standard deviation times the Student's T value for 99% confidence level with n–1 degrees of freedom), or when available, multiplying by 5 the least sensitive method's estimated detection limit (where the EDL equals the concentration of compound yielding approximately a 5 to 1 signal to noise ratio or the calculated MDL, whichever is greater).

[f] Entry Points to the Distribution System, After Treatment.

[g] Minimum Reporting Levels (MRL) for Volatile Organic Compounds (VOC) determined by multiplying either the published Method Detection Limit (MDL) or 0.5 µg/L times 10, whichever is greater. The MDL of 0.5 ug/L (0.0005 mg/L) was selected to conform to VOC MDL requirements of 40 CFR 141.24(f)(17(E).

[h] To be Determined.

[i] Compound currently not listed as a contaminant in this method. Methods development currently being conducted in an attempt to add it to the scope of this method.

[j] Methods development currently in progress to develop a solid phase extraction/high performance liquid chromatography/ultraviolet method for the determination of this compound.

[k] Compound listed as being a contaminant using EPA Method 525.2; however, adequate sample preservation is not available. Preservation studies currently being conducted to develop adequate sample preservation.

[l] Methods development currently in progress to develop a solid phase extraction/gas chromatography/mass spectrometery method for the determination of this compound.

Microorganism	Identification No.	Anticipated analytical methods	Minimum reporting level	Anticipated sampling location
List 3—Pre-screen Testing: Contaminants With Analytical Methods Not Anticipated (To Be Available by Regulation Implementation)				
Cyanobacteria (blue-green algae, other freshwater algae and their toxins).	Reserved [a]	TBD [a]	TBD [a]	TBD [a]
Echoviruses	Reserved [a]	TBD [a]	TBD [a]	TBD [a]
Coxsackieviruses	Reserved [a]	TBD [a]	TBD [a]	TBD [a]
Helicobacter pylori	Reserved [a]	TBD [a]	TBD [a]	TBD [a]
Microsporidia	Reserved [a]	TBD [a]	TBD [a]	TBD [a]
Caliciviruses	Reserved [a]	TBD [a]	TBD [a]	TBD [a]
Adenoviruses	Reserved [a]	TBD [a]	TBD [a]	TBD [a]

[a]=To Be Determined.

Tables 3 and 4, in III.A.1.(c), Analytical Methods Applicable to the Monitoring List, present a summary of the status of the methods for all the contaminants on this list.

EPA believes that this three-tiered approach to the Monitoring List and program, which was recommended by stakeholders, reflects a balance between the implementability of current analytical methods and the need to obtain data in time frames that are useful for responding to concerns about the contaminants identified.

(b) Number of Contaminants on the Monitoring List

Thirty-two contaminants are on the UCM List, as proposed. SDWA Section 1445 (a)(2)(B)(i) indicates that the List shall not have more than 30 contaminants required to be monitored by public water systems. EPA interprets this to mean that the List may contain more than 30 contaminants, as long as monitoring is not required for more than 30 contaminants during the five-year listing cycle. EPA proposes that the 32 contaminants identified in the CCL Occurrence Priorities remain on the UCM List, with monitoring required for no more than 30 contaminants in any five-year UCM cycle. Furthermore, EPA proposes that future UCM Lists may include additional contaminants beyond 30, but the UCMR Program would only

require monitoring for up to 30 contaminants during any listing cycle.

The contaminants beyond 30 are ones for which PWSs might voluntarily provide data if they monitored for them for their own purposes. These additionally identified contaminants might also be ones for which PWSs might send EPA samples to be tested and analyzed (by EPA) if the Agency is developing or recently developed a provisional analytical method for them. EPA is preparing a guidance document specifying the procedures for voluntary submission of such data in the future to the National Contaminant Occurrence Database (NCOD). EPA requests public comment on maintaining a UCM List of more than 30 contaminants, but limiting PWS monitoring to 30 contaminants in any five-year UCMR listing cycle.

(c) Modifying the Monitoring List through the Governors' Petition

Section 1445(a)(2)(B)(ii) of SDWA provides that the Administrator shall include in the UCM List each contaminant recommended in a petition signed by the Governor of each of seven or more States, unless the Administrator determines that the action would prevent the listing of contaminants of a higher public health concern.

The statutory provision acknowledges the roles of States in setting priorities for developing health-based drinking water standards. The Governors' petition also provides a formal mechanism for addressing drinking water contaminants of concern that are identified between the periodic updating of the Unregulated Contaminant Monitoring Rule and the parallel five-year cycle of the Contaminant Candidate List.

(i) Circumstances Affecting the Governors' Petition

Given the requirement that the petition be signed by seven Governors, the petition process is likely to be used only when a contaminant has been identified in drinking water or sources of drinking water that appear to necessitate prompt action to determine its extent of occurrence. Under EPA's present approach to preparing the Contaminant Candidate List, with States and other stakeholders providing input for setting health-based priorities for research and standard-setting, contaminants of concern are likely to be addressed, at least initially, by special studies to determine the significance of their occurrence. One example of an emerging contaminant would be methyl tert butyl ether (MTBE). EPA is working with the U.S. Geological Survey to collect information on the occurrence of MTBE in northeastern States. Perchlorate is another example of an emerging contaminant of concern; the CCL notes that occurrence information is needed and will likely be obtained through special studies. California is studying perchlorate occurrence by requesting all water utilities with vulnerable sources to monitor for it and other States are also monitoring for this contaminant.

Given the necessary resources, EPA expects that well-designed studies will, in many cases, more expeditiously determine the significance of a critical new contaminant's occurrence than the regulatory process of requiring monitoring through the UCMR. However, today's proposal includes a codification of this statutory petition process.

(ii) Response to Governors' Petition

EPA proposes the following approach to contaminants contained in a Governors' petition. If the UCMR List contains fewer than 30 contaminants, the Administrator would add the recommended contaminant(s) to the UMCR list as expeditiously as the regulatory process and the availability of (an) acceptable analytical method(s) allow. Representative monitoring of small systems, however, could be delayed if EPA is devoting all the resources authorized by statute or appropriated to UCMR Assessment Monitoring and Screening Survey, and the monitoring of the State-recommended contaminant(s) would prevent monitoring of other contaminants of a higher health concern by directly replacing them or by making the collection and testing of the remaining contaminants more difficult to conduct, adding costs not anticipated. The other possibility is to conduct Pre-Screen Testing for the contaminant if a method was at the stage of development to allow its application in a highly controlled laboratory setting. This testing would focus on PWSs that might be more likely locations for the contaminant to occur.

If the UCMR list is at the statutory maximum of 30 contaminants for which monitoring is required, the Administrator must determine whether a State-recommended contaminant is of a higher public health concern than one of the contaminants already on the list. The ideal approach would be to compare the contaminant's occurrence weighted by the degree to which populations are exposed to levels above a health-based criterion. Although not required, the Governors' petition would likely cite State and/or other evidence of widespread contamination or potential for contamination. Health effects information may be minimal, particularly for probable drinking water exposures. In such a case, the Administrator would need to compare all the information available on the State-recommended contaminant(s) related to public health concerns, including special concerns for children and other sensitive subpopulations, and the availability of analytical methods to that of the contaminants on the UCMR list, to determine which, if any, contaminant(s) on the list of contaminants for which monitoring is required it/they should replace.

B. Public Water Systems Subject to the UCMR

The monitoring in these proposed revisions focuses ultimately on determining, on a national basis, the occurrence or likely occurrence of contaminants in drinking water of community water systems (CWS) and non-transient non-community water systems (NTNCWS). For regulatory purposes, public water systems are categorized as ''community water systems,'' or ''non-community water systems.'' Community water systems are specifically defined as ''public water systems which serve at least 15 service connections used by year-round residents or regularly serve at least 25 year-round residents.'' (40 CFR 141.2) A ''non-community water system'' means any other public water system. Non-community water systems include nontranisent non-community water systems and transient non-community water systems. Non-community water systems are available to serve the public, but are not used on a year-round basis in most cases. Non-transient systems regular serve at least 25 of the same persons over six months per year (e.g., schools). Transient systems do not regularly serve at least 25 of the same persons over six months per year.

One of the factors to be considered in establishing the revised UCM program under the 1996 SDWA Amendments is the number of persons served by a system. With respect to size, about 2,774 large systems (each serving more than 10,000 persons) provide drinking water to about 80 percent of the U.S. population served by public water systems. Under today's proposed regulation, all large systems would be required to monitor the unregulated contaminants specified in § 141.40(a)(3).

Section 1445(a)(2)(A) requires that the UCMR ensure that only a representative sample of systems serving 10,000 or fewer persons be required to monitor unregulated contaminants. The small community water systems, each serving

10,000 or fewer persons, and the non-transient, non-community water systems total 65,636 systems. EPA proposes that these systems be the set from which the national representative sample of systems is selected. EPA proposes that transient non-community systems be excluded from unregulated contaminant monitoring requirements. The variation in the 97,000 transient systems would be difficult to reflect in a national representative sample and could be very costly. Furthermore, projecting contaminant exposure results from such systems would be complex and inconclusive because of the transient nature of the population that uses them. The results from the very small community and non-transient, non-community systems (NTNCWS) could be extrapolated to these systems.

EPA will pay for the reasonable costs of monitoring for this representative sample, as long as the systems are part of a State Monitoring Plan. The Agency proposes that each system be selected through the use of a random number generator and monitored according to a nationally representative sample plan developed on the basis of population served by PWSs in each State. This is necessary to ensure the validity of the sample nationally and because EPA typically has the least information about these systems and needs a consistent base of data for program development. EPA proposes that a national sample of approximately 800 systems serving 10,000 or fewer persons would be statistically drawn from the national population served by PWSs. Section F, ''Representative Sample of Systems Serving 10,000 or Fewer Persons,'' provides the basis for this sample size. The number of systems selected within each size range of small systems will be based on the proportion of the State's population served by that size range within water source type. The State-based component of this national representative sample, called a State Monitoring Plan (or State Plan), would be reviewed and if necessary modified by a State. The resulting State Plans would then be part of a national sample framework, providing the representative national sample requisite to drawing national conclusions.

Additionally, to provide an improved understanding of contaminants and conditions affecting small systems, and additional quality assurance for this small sample, EPA proposes to statistically select up to 30 small public water systems from the systems in State Monitoring Plans using a random number generator as ''index'' sites at which contaminants would be monitored for every year during the five year listing cycle. EPA would conduct the sampling and testing for systems selected as index sites. At the time of sampling, EPA would also gather other data to characterize the environmental setting affecting the system including precipitation, land and water resource use and environmental data (such as soil type and geology).

Also, up to 150 additional small systems might be selected for the Pre-Screen Testing. The systems for the Pre-Screen Testing will be selected on the basis of their representativeness of systems most vulnerable to the particular List 3 contaminants. The statistical selection of the 800 systems for the national representative sample may not include the systems deemed most vulnerable to these contaminants, hence, the States and EPA may need to select additional systems for this targeted testing.

C. Type of Monitoring Required of Public Water Systems Based on Listing Group

At the Unregulated Contaminant Monitoring Regulation Stakeholders Meeting on June 3–4, 1998, a range of stakeholders suggested that the UCMR monitoring program be developed through a progression of monitoring levels based on contaminant groups that reflect current information about both the occurrence of the contaminants and method development. Current information and methods availability would determine the extent of monitoring. Both EPA and stakeholders are concerned about contaminants that may be ''emerging'' as contaminants of concern because they have not been monitored before but have the potential to be found near or in drinking water supplies or have been identified as potential health problems. An ''emerging contaminant of concern'' would not likely be covered by an approved EPA analytical method. Typically, ''research'' methods are used to detect such emerging contaminants and may be expensive. EPA would have to either develop an approved method for inclusion in a regulatory approach, or perhaps substitute a regulatory approach with a study using a single laboratory and a ''research'' method. The need to develop an approved analytical method would ''compete'' against other contaminants on the CCL that also require analytical method development. In recognition of these considerations, EPA proposed an approach with three monitoring levels, referred to as ''Assessment Monitoring,'' ''Screening Survey,'' and ''Pre-screen Testing,'' described below. EPA is seeking public comment on this approach.

1. Assessment Monitoring

The first type of monitoring in the three-tiered monitoring program that EPA proposes today pertains to the group of contaminants for which analytical methods are specified in § 141.40(a)(3), Table 1, List 1, Assessment Monitoring and in today's Preamble in Table 5, List 1. Importantly, these contaminants are ones for which initial data for PWSs indicate that the contaminants occur in at least two States or ten public water systems and should be monitored to assess national occurrence through UCM.

In § 141.40, EPA is proposing that each system conduct UCMR ''Assessment Monitoring'' of List 1 contaminants for a twelve-month period in the first three years of a five year UCMR contaminant listing cycle. Large systems would complete this monitoring in any twelve month period beginning in the years 2001 to 2003. Small systems in State Monitoring Plans would complete the monitoring according to the scheduled monitoring identified in those plans within the period of 2001 to 2003. Section F, ''Representative Sample of Systems Serving 10,000 or fewer persons,'' describes in detail the subset of small systems required to monitor. The State could specify in the State Monitoring Plans the schedule that would correlate with compliance monitoring. This arrangement should enable systems to complete UCMR sampling coincident with their compliance monitoring for regulated contaminants during one of the years when compliance monitoring is required. However, EPA recognizes that some large systems may not be required to monitor for any regulated contaminants to allow compliance within the five years after the effective date of this rule. In such a case, such large systems could monitor for the unregulated contaminants for any twelve-month period with in the five years they choose.

EPA is proposing that surface water systems monitor for four consecutive quarters and ground water systems two times six months apart. Under Assessment Monitoring, systems serving more than 10,000 persons would conduct and pay for their own sample collection and testing. Small systems included in State Monitoring Plans would collect the samples with EPA-supplied equipment and send the samples to EPA-specified laboratories. EPA would pay for the testing and reporting. The system would still have overall reporting responsibility to the

primacy agency. Frequency and location of monitoring are discussed in section D, ''Monitoring Requirements under the Proposed UCMR.''

2. Screening Survey

The contaminants that EPA is considering for the Screening Survey are listed in Table 5, List 2 and consist of those for which analytical methods are under development and for which EPA has less occurrence data than for the contaminants on List 1. The purpose of the Screening Survey is to analyze for contaminants where the use of newly developed, non-routine analytical methods are required. To do this, EPA would maximize the quality of the occurrence data obtained by using only a select, controlled group of laboratories. In addition, the Screening Survey might allow EPA to maximize occurrence data gathering resources by having a structure in place that would obtain scientifically defensible occurrence data for emerging contaminants of concern, more quickly than could be obtained through standard unregulated contaminant monitoring efforts. The Screening Survey could, for example, be useful where questions concerning whether a contaminant of concern is in fact occurring in drinking water. The Screening Survey is also intended to allow EPA to screen contaminants to see if they occur frequently enough to justify inclusion in future unregulated contaminant Assessment Monitoring or so frequently as not to require further monitoring but allow the Agency to begin to develop standards.

The contaminants in List 2 would be tested for in drinking water of a smaller, statistically valid sample of all (large and small) community and non-transient, noncommunity water systems (for example, about 300 systems), selected through a random number generator used to identify specific PWSs. The sample size needed for estimating frequencies of contaminant occurrence are smaller if the actual frequencies are close to 0, or to 100, percent. When a contaminant is consistently present, or consistently absent, it requires fewer samples to determine its frequency with adequate statistical confidence than if it occurs about half the time. Only 300 PWSs are needed to determine if a contaminant is present 5 percent or less frequently, at a 99 percent confidence level and with a 3 percent margin of error. (The same criteria require 1,844 samples when the frequency could be any number.) If the contaminant occurrence were over the threshold established for the Screening Survey, EPA would include the contaminant in the next Assessment Monitoring round (projected to begin in 2006) of the UCM program. The statistical threshold for positive results from this testing to determine if further testing is warranted might be 1 to 2 percent of systems having detections. If the contaminant occurrence were under the threshold, then no further testing would be required, and the contaminant may be removed from the list in a future UCM rulemaking. EPA is requesting public comment on whether the statistical threshold of 1 to 2 percent of systems is adequate to make a determination that further Assessment Monitoring should be conducted to determine the extent of contaminant occurrence, and, if not, what percent should be used as the threshold for such a determination .

The analytical methods that might be used are identified in Table 5, List 2, Screening Survey, as ''Anticipated Analytical Methods.'' These methods are being refined for the particular contaminants on List 2 and are not expected to be ready for use in an Assessment Monitoring program. Therefore, as groups of contaminants from List 2 have analytical methods that can be applied, EPA will publish a rule modification for public comment indicating the analytical methods and minimum reporting levels applicable to the contaminants and the location and timeframe for sampling.

Comments on the ''Screening Survey'' should address both the rationale for the contaminants identified for the Screening Survey and the monitoring program for them. Additionally, EPA is requesting public comment on two potential outcomes from the ''Screening Survey'': (1) As noted previously, if the contaminant is observed at very few or no PWSs (i.e., less than the threshold of 1 to 2 percent of systems), then the contaminant would be dropped from the UCM List 2 and no further monitoring for it would occur, and (2) if the contaminant is observed extensively (i.e., in a higher percentage of PWSs, such as 5 to 10 percent) and EPA has health effects data on it that indicate a significant concern, then it may move directly to the regulation development stage. In that case, there may be no Assessment Monitoring to provide additional occurrence data for that contaminant, depending on the urgency of the situation and existing data sufficiency.

With respect to funding the Screening Survey, EPA proposes that it pay for the testing and reporting (as described in Preamble section III.G., Reporting of Monitoring Results) for systems serving 10,000 or fewer persons. Systems serving 10,000 or fewer persons would be responsible for sample collection and preparing the samples for shipment. EPA would pay for the shipment of these samples to an EPA designated laboratory for testing.

For large systems serving more than 10,000 persons, EPA requests public comment on which alternative testing approach it would follow: (1) The large system would collect the samples, and submit them to a laboratory approved for testing List 2 contaminants based on EPA's evaluation of the laboratory's capability, blind sample test results, experience with similar methods, willingness to test samples from any PWS regulated under this regulation, and reasonableness of offered service price. The approved laboratory would report the results to the system. These large systems would be responsible for paying for the costs of testing by the EPA approved laboratory. (2) EPA would specify a strict protocol and performance criteria, that must be followed for this Screening Survey testing, including possible additional reporting requirements to allow comparison of the results with results from EPA's laboratory. Large systems could submit data from the test results for the List 2 contaminants as long as the laboratory doing the testing could document that it followed the protocol. These protocol and criteria would need to be published when the EPA publishes the rulemaking for public comment that contaminants in List 2 have methods ready for use in the UCMR program. EPA's concerns about this alternative testing approach are: (1) Increasing the number of laboratories participating would adversely impact the precision of the resulting data therefore, requiring a substantial increase in the number of utilities sampled to compensate, (2) A laboratory certification system would need to be established, causing considerable additional burden for both the States and EPA, and (3) no common analytical standards are available. EPA requests public comment on whether other options exist that would have low administrative burden for the States and EPA, have reasonable costs for testing List 2 contaminants by large systems, and allow EPA to obtain the scientific and defensible data it needs to make regulatory decisions.

EPA believes that one of these two arrangements for conducting the Screening Survey monitoring at large systems is necessary because strict quality assurance/quality control are essential for methods that are not fully developed for the contaminants being tested because of the small sample size. It is important to note that this testing

would be from a limited number of systems and, for any particular system, would only be done over a one-year timeframe in the five year contaminant listing cycle. If the contaminant occurrence were frequent enough or in sufficiently high concentrations to warrant regulation, future testing for the contaminant might not occur for another three to five years (i.e., after promulgation of a final regulation for that contaminant.

The Screening Survey would occur one or two times during the five-year listing cycle. EPA expects that this Screening Survey monitoring would occur for groups of contaminants, rather than for one contaminant at a time. Systems selected for the Screening Survey would monitor at the same frequency as for contaminants under Assessment Monitoring. Should implementation of the analytical method for a particular contaminant become a problem, the contaminant might move into the category of Pre-Screen Testing, described below.

3. Pre-Screen Testing

The third tier of the proposed monitoring program is ''Pre-Screen Testing'' for contaminants with analytical methods in an early stage of development. Pre-Screen Testing means sampling, testing, and reporting of the listed contaminants that may have newly emerged as drinking water concerns and, in most cases, for which methods are in an early stage of development. Pre-screen testing will be performed to determine whether a listed contaminant occurs in sufficient frequency in the most vulnerable systems or sampling locations to warrant its being included in future Assessment Monitoring or Screening Surveys. Pre-Screen Testing requirements will only apply to a contaminant through additional rulemaking.

EPA will select a limited number of systems (up to 200) to conduct Pre-Screen Testing, through the use of a random number generator, selected from up to 25 most vulnerable systems identified by each State. Up to 200 systems, a smaller sample size than under the Screening Survey or Assessment Monitoring, are considered sufficient for this type of monitoring because monitoring would occur at systems anticipated to have the contaminants, based on the characteristics of the contaminants, system operation, climatic conditions, and land and water resource use. This monitoring is to determine whether the contaminant can be found in any public water system under most likely occurrence conditions specific to the contaminant, and not to determine the extent of occurrence. The portion (e.g., 100 to 150) of these 200 systems may be a different subset of small systems serving 10,000 or fewer persons than those selected for the national representative sample. The reason for this different subset is that States should identify the systems that are representative of the most vulnerable conditions for the contaminants specified for Pre-Screen Testing. These most vulnerable systems may not be those conducting Assessment Monitoring or the Screening Survey. It is possible, though, that some overlap of systems doing Assessment Monitoring and Pre-Screen Testing could occur.

EPA is proposing under Pre-Screen Testing that the selected systems use EPA's designated or approved (as indicated above for the Screening Survey testing of samples from large systems) laboratory or laboratories to conduct this testing. The reason for this proposed testing approach is that the analytical methods expected to be used will have just emerged from research development and other laboratories will not have had the opportunity to use them, which could involve extensive investment in equipment and training. Rather than cause this investment to occur for contaminants which have uncertain occurrence in public water systems, EPA would develop the initial methods sufficiently to test for the contaminants and actually apply them to samples that are most likely to have the contaminants to determine whether further action is warranted and additional method development is needed.

The Pre-Screen Testing option might include (1) contaminants on List 3, for which EPA has limited data on occurrence in drinking water and does not expect to have methods developed by the time this regulation is promulgated, or (2) contaminants not on the CCL that become a concern, such as through the Governors' petition process. The purpose of Pre-Screen Testing would be to determine whether the methods in early development will provide positive results in conditions under which the contaminants are most likely to occur.

Under this approach, once EPA has a method sufficiently developed, it would require States to identify at least 5 and not more than 25 systems which might be most vulnerable to the listed contaminants. States would select these systems from all community and non-transient noncommunity systems serving less than 10,000 persons and systems serving more than 10,000 persons. Selection criteria for these systems include States determination of systems most vulnerable to the specified contaminants and numbers of systems per State based on the number of persons served in each size category of system. The States would send the list of systems, the modification of their State Monitoring Plans for systems serving 10,000 or fewer persons to add the selected systems of this size, and the reasons for their selection, considering the characteristics of the contaminants, precipitation, system operation, and environmental conditions, to the EPA Regional Office. EPA would select up to 200 PWSs nationwide from this pool of State-identified vulnerable systems that must submit samples of the specified contaminants. Some small systems selected may not be part of the national representative sample of 800 systems selected for Assessment Monitoring. Hence, some small systems may only be required to assist with Pre-Screen Testing. States or the EPA Regional Office would provide instructions to the systems for the necessary sampling and subsequent shipping to the EPA laboratory. At this time, EPA believes that the contaminants to which Pre-Screen Testing is likely to apply are those listed in this Preamble in Table 5, List 3, and in the proposed rule at § 141.40(a)(3) Table 1, List 3. Sampling and testing done for Pre-Screen Testing would most likely occur in the later years of the five-year contaminant listing cycle. This approach will assist EPA in refining the methods for these contaminants. If EPA finds any substantial frequency of occurrence, the contaminants could either become part of the Screening Survey or part of Assessment Monitoring in future UCM lists. Since these methods could only be applied under highly controlled test conditions and EPA would be refining the methods, EPA would pay for the shipping and testing of these samples for small monitored systems selected to participate and large systems would pay for the shipping and testing of samples at EPA approved laboratories.

4. Option to the Three-Tiered Approach

The principal option considered in developing this proposal for the type of monitoring required was to require all large systems and small systems included in State Monitoring Plans to monitor for all the contaminants on the UCM Monitoring List, phasing in the contaminants as their respective methods became approved for testing by certified laboratories. This approach had the problem of attempting to use recently developed methods in an extensive monitoring program without

multi-matrix, multi-laboratory testing of the methods. This option would cost $50 million more annually than the proposed three-tiered approach because the high cost of the methods, especially on List 3. Also, the large PWSs with laboratories as well as independent laboratories would have potentially large investments in testing equipment that it might not have made for just a one year monitoring activity, especially if EPA decided not to regulate the particular contaminant. Alternatively, waiting until an analytical method had been thoroughly evaluated and refined for broad use in testing at reasonable cost to all systems would result in few of the contaminants on Lists 2 or 3 ever being monitored for during the five year listing cycle. This would postpone the collection of useful data with which decisions might be made relative to whether to regulate the contaminants.

D. Monitoring Requirements Under the Proposed UCMR

1. Monitoring Frequency

(a) Systems Serving More Than 10,000 Persons

Chemical Contaminants. The number of persons served affects exposure to contaminants and resources necessary to undertake a monitoring activity. The proposed UCMR program requires large systems serving more than 10,000 persons to monitor at each entry point to the distribution system whether or not the system applies treatment, but if it does, then it must monitor after treatment. EPA is also to consider the source of water relative to these monitoring requirements (SDWA section 1445(a)(2)(A)). Over the twelve-month period of monitoring, EPA proposes that systems sample from all entry points representing all sources of water used over the monitoring period. Surface water-supplied systems would monitor each of these points every three months within a twelve-month period and ground water-supplied systems would monitor each of these points two times, six months apart. Today's proposed monitoring frequency for surface water systems is the same as in the current program. For ground water systems, the proposed two samples must be six months apart, increasing this monitoring from one sample under the current program. The reasons for this increase are that while ground water typically moves slowly, one sample is insufficient to characterize water quality at any particular location and would not provide evidence of any changes over a longer period of time. From a statistical standpoint, one sample is not representative and would not allow the data to be used for exposure assessment which uses an average annual rate. At State discretion, this monitoring may be coordinated with compliance monitoring for regulated contaminants. This proposed frequency applied to the average of 6.2 entry points to the distribution system for this system size will provide sufficient data for an adequate statistical analysis of the varied conditions in which these systems are located.

One of the monitoring events for both surface water and ground water systems must occur at the most vulnerable time of year for the PWS. The rationale for this approach is that it provides results representing potential variation in contaminant concentration over a year. This variation of concentration is necessary to evaluate exposure related to contaminant occurrence results. While some systems that perform compliance monitoring on a quarterly basis could collect UCMR samples coincident with their compliance samples and would therefore provide data on the range of variation, other systems may only conduct compliance monitoring once every third year and for one year every five years only, and would therefore have to collect additional samples under the UCMR. While one UCMR sample could be collected coincident with this compliance sample, EPA is proposing for ground water-supplied systems that a second sample be taken six months later to provide the necessary data on seasonal variation over a year to allow consistent exposure assessment to be done with a range of concentrations. Stakeholders supported this option. EPA proposes that all systems serving more than 10,000 persons and a representative sample of systems (about 800) serving 10,000 or fewer persons monitor under this frequency and schedule.

Microbiological Contaminants. For microbiological contaminants, the sampling frequency would be two times, with samples collected each time at two different locations in the distribution system after treatment: a site representative of water in the distribution line received by the general population that the system serves and a site near the end of the distribution line representing the longest residence time. The frequency should capture the most vulnerable time as well as a time six months later to provide an average exposure. Furthermore, precipitation patterns may be a major factor in contaminant occurrence. Thus, frequency should be tailored to times of the year of significant vulnerability because increased seasonal precipitation may carry these contaminants at higher concentrations than other times during the year.

(b) Systems Serving 10,000 or Fewer Persons

EPA proposes that approximately one third of the systems serving 10,000 or fewer persons in the representative sample described below, be sampled each year over a three year period at the frequencies indicated in (a) above to allow a relatively even submission of samples to be managed and tested by the EPA laboratory. Since EPA will pay for the reasonable costs of monitoring (i.e., containers, shipping, and testing) for this representative sample, including Assessment Monitoring, Screening Survey, and Pre-Screen Testing, at its designated laboratories, it would need to be able to manage the number of samples being received at any time.

2. Monitoring Time for Vulnerable Period

Water quality studies and monitoring throughout the United States have clearly shown that contaminant occurrence and/or concentration vary over time, both seasonally as well as from year to year. The seasonality of occurrence, or period of peak concentration of contaminants commonly varies with seasonal changes in the hydrologic cycle in relation to the source of contaminants and their fate and transport characteristics. Particularly for land-applied or land-disposed contaminants, the increased flux of water mobilizes the contaminants and moves them into surface or ground water flow systems. For the most vulnerable of water systems, such as surface waters, unconfined shallow ground water and karst flow systems, for example, contaminant occurrence or peak concentrations typically occur during annual runoff and recharge periods. For much of the eastern United States, east of the Rocky Mountains, many studies have shown the season of greatest vulnerability for contaminant occurrence is the late-spring, early-summer runoff-recharge period, particularly for contaminants such as pesticides and nitrate (e.g., Larson et al., 1997; Barbash and Resek, 1996; Hallberg, 1989a, b). For deeper, more confined ground water systems, defining vulnerable periods is much more difficult. The exact flow path and time of travel are much greater and more complex and are dependent upon many factors unique to a particular well and aquifer setting (e.g., Hallberg and Keeney, 1993). There is no generality

that can be applied to these latter settings.

Because occurrence may vary seasonally, it is important to try to capture these vulnerable periods in a one-time survey of contaminant occurrence such as the UCMR. Statistical studies of sampling strategies in surface water (e.g., Battaglin and Hay, 1996) have shown that incorporating sampling during spring and early summer runoff periods provides a more accurate representation of annual occurrence than random quarterly sampling (that can avoid these months). Ground water studies (e.g., Pinsky et al., 1997) suggest that the more vulnerable ground water settings also show peaks during these periods. The default vulnerable period for sampling for the UCMR has been designated to coincide with this period of peak vulnerability for much of the United States: one sample must be collected during May, June, or July, unless the State has better information to designate another period. Also, for surface waters, three additional samples will be collected throughout the year, and for ground water systems, one additional sample will be collected six months later. This additional sampling would also capture the winter recharge and runoff period that may be more vulnerable in the western coastal regions or warmer southern climates for some contaminants. In the case of some deeper ground water systems, States or systems may have additional knowledge of seasonal vulnerability patterns, in which case the State can designate an alternative period for sampling. EPA requests public comment on the specification of the most vulnerable time for monitoring and how it should be determined.

3. Monitoring Location

In § 141.40(a)(3), today's proposal identifies entry points to the distribution system after any treatment representative of each water source in use over the twelve-month period of Assessment Monitoring as the sampling locations for organic chemicals and the distribution system (a site representative of water in the distribution line received by the general population that the system serves and a site near the end of the distribution line representing the longest residence time) for the microbiological contaminant. Sampling at entry points to the distribution system after any treatment follows the existing regulatory approach for currently regulated contaminants and provides data for exposure assessment.

(a) Chemical Contaminants

The chemicals in this proposed rule are all compounds that would enter a public water supply from the external environment (in contrast to disinfection byproducts, for example) and the proposed monitoring location is at the entry point to the distribution system after treatment, representing all sources of water used over the twelve-month monitoring period to ensure a nationally consistent data set and to provide consistent data for exposure assessment.

(b) Microbiological Contaminants

The sampling locations for microbiological contaminants are different from those for chemical contaminants because the most likely locations to observe microbiological contaminants may be in the distribution system, or, for some, in source water. This is, in part, because of the difficulty of testing to isolate many microbiological contaminants. Two sampling locations are proposed in this regulation. One of the samples would be at the site below a representative entry point to the distribution system that is used for taking total coliform samples; this sample would represent general exposure. The second sample would be near the end of the distribution line that has the longest residence time, representing the extreme exposure of the population at this point in the distribution system. Over the twelve-month period of monitoring, EPA proposes that systems sample at locations representing all sources of water used over the monitoring period, to the extent possible.

Currently, it is not possible to assess whether or not all of the microorganisms (including those on List 3) are likely to be found at any one sampling location, or that one sampling location is the best place to sample for them all. The occurrence information needs differ for different microorganisms. Different parts of the water supply and distribution system may be more likely locations to find particular microbiological contaminants. Therefore, the sampling location for monitoring each microorganism may need to be tailored in the future to the individual organism and the relative ease of finding it in the water of concern.

As a result, for the microbiological contaminants being proposed for Lists 2 and 3 today, EPA has not identified a sampling location or locations. For some of the microbiological contaminants, source water may be the most appropriate sampling location because of the capability of the methods available. In any case, EPA would specify a sampling location at the time a microbiological contaminant would be proposed to become a required monitoring contaminant and ask for public comment at that time.

4. Quality Control Procedures for Sampling and Testing

To assure that the data collected under this proposed regulation are of sufficient quality to meet the requirements for the uses of the resulting data, EPA is proposing the analytical methods and procedures to be used in obtaining the monitoring data in § 141.40(a)(3) and appendix A. Also, additional guidance for quality control and contaminant confirmation are specified in the ''UCMR Analytical Methods and Quality Control Manual.'' This proposed regulation covers quality control steps for all sampling and testing under this program. In addition, the draft guidance manual is available for review and public comment with this proposed regulation. Today's proposed rule would require that all monitored systems follow these methods and procedures in organizing and conducting their unregulated contaminant monitoring and testing. Systems would also have to ensure that the laboratories they use to test samples use the proposed methods and procedures. The specific quality control requirements addressed in § 141.40(a)(3) and appendix A of the proposed rule are: sample collection/preservation; sample transport; sample and sample extract holding time and storage; sample analyses/quality control requirements, including quality control (QC) requirements, calibration, calibration verification, laboratory reagent (method) blank, quality control sample, laboratory duplicates, sample matrix spike (MS) and matrix spike duplicate (MSD), internal standard, surrogate standard, method detection limit determination, minimum reporting level; confirmation; and reporting requirements. EPA believes that requiring the quality control requirements for unregulated contaminant sampling and testing in the proposed rule will enable the Agency to have higher confidence in determining the extent and range of concentrations for the contaminants on the UCM List, since they are not regularly tested for nationally.

5. Monitoring of Routinely Tested Water Quality Parameters

In addition to the contaminants to be monitored, several chemical and physical parameters are important indicators of water quality and may contribute to the likelihood of the

contaminants being found in drinking water. EPA requests public comment on whether it should require the monitoring and reporting of these routinely tested parameters, usually associated with water quality analyses, to provide for a more thorough scientific understanding of the occurrence of unregulated contaminants. It is not EPA's intent to add these chemical and physical parameters to the unregulated contaminant monitoring list, but rather as supplementary data about the sample results which will facilitate their interpretation and use in regulatory decisions. The water quality parameters and their methods for which EPA seeks comment are specified in Table 6, Analytes Approved for Water Quality Parameters.

ANALYTES APPROVED FOR WATER QUALITY PARAMETERS

Analyte	Methodology		
	EPA method	Standard methods [1]	Other
pH	[2]150.1	4500–H^+ B	ASTM D1293–84 [3]
	[2]150.2		ASTM D1293–95 [3]
Turbidity	[4 5]180.1	2130 B [4]	GLI Method 2 [4,6]
Temperature	.....	2550	
Free Residual Chlorine	.....	4500–Cl D	ASTM D 1253–86 [3]
		4500–Cl F	
		4500–Cl G	
		4500–Cl H	
Total Residual Chlorine	.....	4500–Cl D	ASTM D 1253–86 [3]
		4500–Cl E [4]	
		4500–Cl F	
		4500–Cl G [4]	
		4500–Cl I	
Chlorine Dioxide Residual	.....	4500–ClO_2 C	
		4500–ClO_2 D	
		4500–ClO_2 E	
Ozone Residual	.....	4500–O_3 B	

[1] The 18th and 19th Editions of *Standard Methods for the Examination of Water and Wastewater,* 1992 and 1995, American Public Health Association, 1015 Fifteenth St. NW, Washington D.C., 20005.

[2] Methods 150.1 and 150.2 are available from US EPA, NERL, 26 W. Martin Luther King Dr., Cincinnati, Ohio 45268. The identical methods are also in ''Methods for Chemical Analysis of Water and Wastes,'' EPA–600/4–79–020, March 1983, available from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Rd., Springfield, Virginia 22161, PB84–128677. (Note: NTIS toll-free number is 800–553–6847.)

[3] *Annual Book of ASTM Standards,* Editions 1994 and 1996, Volumes 11.01, American Society for Testing and Materials, 1015 Fifteenth Street NW, Washington, DC 20005. Version D1293–84 is located in the *Annual Book of ASTM Standards,* 1994, Volumes 11.01. Version D1293–95 is located in the *Annual Book of ASTM Standards,* 1996, Volumes 11.01.

[4] ''Technical Notes on Drinking Water,'' EPA–600/R–94–173, October 1994, Available at NTIS, PB95–104766.

[5] ''Methods for the Determination of Inorganic Substances in Environmental Samples,'' EPA–600/R–93–100, August 1993. Available at NTIS, PB94–121811

[6] GLI Method 2, ''Turbidity,'' November 2, 1992, Great Lakes Instruments Inc., 8855 North 55th St., Milwaukee, Wisconsin 53223.

6. Relation to Compliance Monitoring Requirements

Currently, compliance monitoring for regulated contaminants is coordinated on a three-year cycle, with all public water systems that are required to monitor sampling for specific contaminants at a minimum of one year every three, six, or nine years, depending on the contaminant and its occurrence in the system. The current and proposed Unregulated Contaminant Monitoring Regulations require monitoring during one year every five years. While these may seem out-of-cycle with one another, EPA is proposing to implement UCMR so that public water systems only have to monitor for unregulated contaminants during one twelve-month period every five years, unless the State determines that PWSs should conduct more frequent monitoring. Hence, the compliance monitoring and the UCMR monitoring can be coordinated, to the extent practical, by conducting UCMR monitoring during a coincident year during which compliance monitoring is required. The years within which the unregulated contaminant monitoring are proposed to occur are specified in § 141.40(a)(3), Table 1, column 6.

7. Previous Monitoring of the Contaminants Proposed for the Monitoring List

Some PWSs may have previously monitored for some of the contaminants identified on the proposed UCM List because of local or State concerns about the possibility of those contaminants occurring in drinking water. While this monitoring may have provided adequate results for their purposes, such results may not be comparable to results under this revised UCM regulation because of differences in sampling and analytical protocols, as well as the sampling period. Other factors compound the problem of comparability, such as: (1) Monitoring methods may have improved; (2) water quality changes over time; and (3) today's proposal requires reporting of a net increase of eight additional data elements, which would allow various, consistent comparisons to be made and data to be aggregated nationally based on current science and quality assurance/quality control consistency. Therefore, EPA is not proposing that monitoring results from previous monitoring be used in place of the monitoring under this revised regulation.

8. Regulatory Options Considered for Large Systems

Regulatory options considered for large systems (small systems are addressed under III.F., ''Representative sample of systems serving 10,000 or fewer persons''):

(a) Which Large Systems Should Monitor

Today's proposal at § 141.40(a)(1)(ii) requires all large systems to monitor under the UCMR. The rationale is that the 1996 SDWA amendments only set aside a subset of small systems to

monitor, but did not do so for large systems. Public input resulting from two Stakeholders meetings (Washington, DC; Dec.2–3, 1997; June 3–4, 1998) on this proposed rule supported the option that all large PWSs should monitor.

The only option considered by EPA was a representative sample of large systems. Stakeholders at the two Stakeholders meetings indicated above generally opposed this. Furthermore, the large system representatives at the meeting indicated that to ensure public health protection, they would monitor for all contaminants on any EPA drinking water unregulated contaminant monitoring list.

(b) Monitoring Frequency

Other monitoring frequencies for the UCMR were considered and rejected:

Ground water: Remaining at one time for one year every five years for ground water systems, as under the current program, was rejected because one sample is not considered representative and does not provide sufficient data about a system that can be averaged to develop a national exposure estimate. Four samples every three months were rejected because most ground water does not change that much over shorter periods of time and the results would, therefore, not provide additional useful information cost-effectively.

Surface water: One or two samples in a year were considered, but rejected because these numbers of samples are too few to reflect the seasonal changes in this source of water. Furthermore, seasonal variation is different in different parts of the country. More frequent sampling of surface water is important to capture the duration of time that higher or lower concentrations of contaminants are observed to apply those results in developing an average concentration over a year for conducting exposure assessment.

Compliance Monitoring Schedule: Another option EPA considered is quarterly monitoring for one year every three years for both surface and ground water systems, in complete coincidence with the standard compliance cycles. However, the compliance cycles (with three, six, and nine year components) are not in synchrony with the new UCMR and CCL five-year cycles. This option was rejected because of the implementation difficulties in adjusting a staggered three-year cycle of monitoring to fit into a five-year UCM listing cycle. This approach would result in some systems having one monitoring year and others having two monitoring years. Also, for many ground-water systems not on a quarterly compliance monitoring schedule, a minimum of two samples six months apart is adequate to address variation in concentrations and to provide an average annual concentration for exposure assessment.

(c) Monitoring Location

Some States currently require source water monitoring as a more stringent requirement for chemical contaminants because it requires the testing of samples before any treatment that might reduce concentrations of contaminants. If the objective is exposure assessment (after treatment), source water monitoring would provide information for assessing potential exposure to acute contaminants should treatment fail. Source water monitoring would also provide useful information for treatment and source water protection analysis in future regulatory analyses that would examine a full range of control alternatives including contaminant treatments or controls in the watershed. Source water monitoring would give an indication of concentrations of contaminants that would need to be treated, of a measure of benefits from existing treatment if the occurrence of an unregulated contaminant is linked with a regulated contaminant being treated, and of the types of locations at which watershed management practices might be targeted. However, additional expense would be involved to monitor source water nationally. Other means of obtaining source water quality data exist, such as State or U.S. Geological Survey data for ambient water quality in watersheds and aquifers. At this time, EPA is not requiring source water monitoring because of the existence of other sources of information and the need to focus the available resources of the Agency on exposure after drinking water treatment for the contaminants on List 1.

During rule development, stakeholders suggested that an alternative location for *Aeromonas* and other microbiological contaminants might be the sampling point used for coliforms. The coliform sampling point, however, may not be representative for testing *Aeromonas hydrophilla*, which tends to be found further into distribution systems at low disinfection residual levels. A low chlorine residual provides the environment for the surviving organisms to recolonize and grow. To enable a balanced assessment of *Aeromonas* occurrence, EPA is proposing to require sampling at both a representative site in the distribution system and a site near the end of the distribution line with the longest residence time.

E. Waivers

1. Waivers for Systems Serving More Than 10,000 Persons

Section 1445(a)(2)(F) of SDWA allows a State to obtain a waiver of UCM for specific contaminants if the State demonstrates that the UCM listing criteria do not apply in that State. These criteria are:

(a) The criteria for listing a contaminant in the occurrence priorities list in the CCL; and

(b) Whether an analytical method exists for the contaminant.

When a State makes such a demonstration for a specific contaminant on the monitoring list, EPA is proposing to waive monitoring for that contaminant in that State for large systems (serving more than 10,000 persons) only.

Stakeholders indicated that waiver requirements should be sufficiently stringent to obtain the most representative national data possible, including non-detections of contaminants on the UCM List. Since only the UCM listing criteria in (a) are relevant to a State-specific waiver and based on stakeholders' concern that the waiver be narrowly applied, EPA is proposing that this waiver be applied only where the State can demonstrate that the contaminant has not been used, applied, stored, released, or disposed of, or does not occur through natural processes (such as growth in a system or air deposition) in the State for the past fifteen years. Source Water Assessments provided for under sections 1453 and 1428(b) of SDWA may be used as the basis for these waivers if the Assessments specifically address the contaminant(s) on the UCM List for which a waiver is sought. Table 7, Uses and Environmental Sources of Contaminants Proposed for the Monitoring List, presents the uses and sources of the contaminants being proposed for the Unregulated Contaminant Monitoring List. A State would need to apply for a waiver from monitoring for specific contaminants and receive EPA approval to waive the monitoring.

While some chemical contaminants may only be discharged into the environment in regional or local areas, microbiological contaminants may be ubiquitous. However, previous monitoring + results over time may provide information useful to waiver determinations for microbiological contaminants.

2. Waivers for Small Systems in State Plans

EPA is proposing that no waivers be granted for small systems serving 10,000 or fewer persons in State Plans for the national representative sample. Stakeholders also supported this position. The systems in State Plans will be statistically selected with the assumption that all systems in a particular size category and water source type have an equal probability of being selected. Non-detections are just as important as detections of contaminants for national analysis. Waiving contaminants to be monitored in certain States not expecting to have such contaminants biases the representative sample toward detections. Selecting the small systems to be included in the State Monitoring Plans for the representative sample through a statistical process effectively waives ninety-seven percent of the systems from the proposed monitoring requirements (based on using 99 percent confidence level with three percent allowable error). Therefore, EPA rejected waivers for systems serving fewer than 10,000 persons because this option would be contradictory to obtaining a scientifically sound data set that provides the basis for a scientific statistical analysis.

TABLE 7.—USES AND ENVIRONMENTAL SOURCES OF CONTAMINANTS PROPOSED FOR THE MONITORING LIST

Contaminant name	CASRN	Use or environmental source
Proposed Chemical Contaminants		
1,2-diphenylhydrazine	122–66–7	Used in the production of benzidine and anti-inflammatory drugs.
2-methyl-phenol	95–48–7	Released in automobile and diesel exhaust, coal tar and petroleum refining, and wood pulping.
2,4-dichlorophenol	120–83–2	Chemical intermediate in herbicide production.
2,4-dinitrophenol	51–28–5	Released from mines, metal, petroleum, and dye plants.
2,4-dinitrotoluene	121–14–2	Used in the production of isocyanate, dyes, and explosives.
2,4,6-trichlorophenol	88–06–2	By-product of fossil fuel burning, used as bactericide and wood/glue preservative.
2,6-dinitrotoluene	606–20–2	Used as mixture with 2,4-DNT (similar uses).
Acetochlor	34256–82–1	Herbicide used with cabbage, citrus, coffee, and corn crops.
Alachlor ESA	.....	Degradation product of alachlor, an herbicide used with corn, bean, peanut, and soybean crops to control grasses and weeds.
DCPA di-acid degradate.	2136–79–0	Degradation product of DCPA, an herbicide used on grasses and weeds with fruit and vegetable crops.
DCPA mono-acid degradate.	887–54–7	Degradation product of DCPA, an herbicide used on grasses and weeds with fruit and vegetable crops.
DDE	72–55–9	Degradation product of DDT, a general insecticide.
Diazinon	333–41–5	Insecticide used with rice, fruit, vineyards, and corn crops.
Disulfoton	298–04–4	Insecticide used with cereal, cotton, tobacco, and potato crops.
Diuron	330–54–1	Herbicide used on grasses in orchards and wheat crops.
EPTC	759–94–4	Herbicide used on annual grasses, weeds, in potatoes and corn.
Fonofos	944–22–9	Soil insecticide used on worms and centipedes.
Linuron	330–55–2	Herbicide used with corn, soybean, cotton, and wheat crops.
Molinate	2212–67–1	Selective herbicide used with rice, controls watergrass.
MTBE	1634–04–4	Octane booster in unleaded gasoline.
Nitrobenzene	98–95–3	Used in the production of aniline, which is used to make dyes, herbicides, and drugs.
Prometon	1610–18–0	Herbicide used on annual and perennial weeds and grasses.
Terbacil	5902–51–2	Herbicide used with sugarcane, alfalfa, and some fruit, etc.
Terbufos	13071–79–9	Insecticide used with corn, sugar beet, and grain sorghum crops.
Microbiological Contaminants		
Adenoviruses	N/A	Fecal sources; hand to mouth transmission.
Aeromonas hydrophila	N/A	Present in all freshwater and brackish water.
Cyanobacteria (Blue-green algae), other freshwater algae and their toxins.	N/A	Blooms in surface water bodies; produce toxins.
Caliciviruses	N/A	Contaminated food and water, raw shellfish.
Coxsackieviruses	N/A	Fecal sources; hand to mouth transmission.
Echoviruses	N/A	Fecal sources; hand to mouth transmission.
Helicobacter pylori	N/A	Fecal sources; hand to mouth transmission.
Microsporidia	N/A	Occurs in rivers, ponds, lakes, and unfiltered water.

F. Representative Sample of Systems Serving 10,000 Persons or Fewer

As required by section 1445(a)(2) (A) and (C), the regulation proposes that only a representative sample of public water systems serving 10,000 or fewer persons would have to monitor. As previously explained, only community and non-transient non-community systems would be required to monitor for unregulated contaminants under this proposal. Therefore, the representative sample would include only community and non-transient non-community systems serving 10,000 or fewer persons. The representative sample would need to be of sufficient size to gather the necessary information on occurrence of unregulated contaminants to determine whether or not to regulate them, while not burdening every water system with the expense of monitoring. The number of systems selected within each of three size ranges of small systems would be based on the proportion of the State's population served by systems in that size range. (An example appears below under (5)(a), State Plans for the Representative Sample.) The small systems in the national representative sample would be selected using a statistical random

sampling process. This process would utilize a random number generator to choose a statistically determined number of systems in each State and Tribe having ''treatment as a State'' status, considering the number of systems served by water source type (e.g., ground or surface water) and then system size category (i.e., 25 to 500 persons, 501 to 3,300, and 3,301 to 10,000) within the water source type. EPA is proposing that the national representative sample become the basis for the State Monitoring Plan in each state. The use of this statistical approach is designed to take into account different system sizes, types of systems, the source of supply, contaminants likely to be found, and geographic location in each State. EPA believes that the end product of this statistical process applied to selecting systems to monitor must be data that are sufficient to answer questions about occurrence of contaminants on a national scale for use in exposure assessments and technology evaluations of alternative treatments at a PWS and in its watershed. These data should also be sufficient to answer questions at a broad multi-state scale, such as systems classified by size or source of water, particularly when combined with data for the 2,774 large systems.

Under this proposal, small system monitoring would be too sparse to answer questions about occurrence at the scale of a single State. The number of systems required for evaluation of occurrences in a single state are far greater than, and thus more costly than, those needed for the broader national evaluations required under the Act to determine whether or not to regulate a contaminant.

1. System Size

Based on statistics reported in the Safe Drinking Water Information System (SDWIS), the following numbers of systems (1997 data) by size will approximate the universe from which a representative sample of systems serving 10,000 or fewer people will be taken for this proposed national representative sample plan. These system size categories are proposed because they are used in other statutory and regulatory characterizations of systems, and are applied under the existing rule for unregulated contaminant monitoring for the scheduling of sampling. The relevant system and population information (1997) for systems serving 10,000 or fewer persons is:

Number of people served in PWS size range	Number of PWSs in size range	Population served nationally	
		CWS	NTNCWS
25 to 500	48,100	5,249,577	2,379,034
501 to 3,300	14,126	19,918,106	2,724,728
3,301 to 10,000	3,410	25,236,059	401,579
Total	65,636	50,403,742	5,505,341

Considering all community water systems and NTNCWS that do not purchase their water supplies, 65,636 PWSs are in the size range for small systems as defined in section 1445. Systems purchasing water from other systems are proposed to be excluded from this rule because they could bias results by potentially causing double counting of contaminant occurrence. EPA seeks public comment on whether systems purchasing water from other systems should be included in the representative sample, particularly for monitoring at the location of the longest residence time within a water distribution system.

2. System Type

(a) Public Water System Monitoring

Under today's proposal, all public water systems serving 10,000 or fewer persons, except transient non-community systems, would be considered for monitoring, but only a subset would be selected for the national representative sample. Public water systems owned and/or operated on Tribal lands by Tribes would be treated as a separate group for the representative sample, rather than counting them within the State boundaries as systems in a particular State. EPA is proposing that the size of the representative sample and the specific systems required to monitor will be identified by EPA and sent to the States for review and inclusion in State Monitoring Plans (discussed below).

(b) Non-Transient Non-Community Water Systems

Non-Transient Non-Community Water Systems (NTNCWS) represent schools, hospitals and other facilities in communities that serve the resident population but have their own water supply systems. Approximately 20,000 systems of this type exist in the United States. Today's proposed regulation at § 141.40(a)(1)(iii) would include NTNCWS as a separate type of water system to be included in the representative sample for monitoring. Typically, these systems are closely associated with a local resident population and may be a significant source of water consumed by that population over a lifetime. Indeed, these systems may be a major source of water consumed by individuals resident in a community. The selection of NTNCWS will use the same statistical process as for community water systems (CWS), with systems grouped within a State by water source type and size category. The reason for a separate category for NTNCWS is to avoid double-counting of population served when doing exposure assessments of both small CWS and NTNCWS, while allowing weighting of lifetime water consumption by system type.

(c) Transient Non-Community Systems

Transient non-community water systems represent systems providing drinking water to transient populations such as at a restaurant in a rural location or a highway roadside rest area. About 97,000 of these systems exist in the United States; their location and type are highly variable. It would be difficult to extrapolate exposure from monitoring results, given the very short-term nature of the systems' use by individuals who may not be in the area for more than a few hours or days. Because of problems with implementation and cost for sampling such a large and highly variable set of typically very small systems, EPA is proposing to exclude transient systems from all unregulated contaminant monitoring requirements. In this regard, this proposal is consistent with the current UCM program. EPA seeks public comment on excluding transient non-community systems from State Monitoring Plans for the representative sample of systems to be monitored.

3. Geographic Location Within the State

SDWA section 1445 specifies that State plans should consider ''geographic location'' when selecting a representative sample. This is accomplished at the broadest level by selecting systems from each State. Yet within a State, the sources of water may not be evenly distributed across that State, especially surface waters. Cities transfer water across watershed boundaries, or move water from one State to another. To best represent water being consumed by individuals, EPA proposes to define ''geographic location'' in the representative sample proposed today as the location of the source of water, rather than as an even distribution of points across the State. For example, if 40 percent of the persons in a State obtain their water from one water source type (e.g., surface water), 40 percent of the systems selected as representative should be from that source type, even if this results in points unevenly distributed across the State. This distribution should be accommodated by the population-weighted statistical sample selection.

4. Likelihood of Finding Contaminants

Section 1445(a)(2)(A) requires that the UCMR program take into account the likelihood of finding a contaminant in establishing variable monitoring requirements for systems. This proposal is intended to allow the UCMR program to focus on monitoring for contaminants that are expected to be found nationally or among several regions of the United States. Therefore, the expectation of finding the contaminants nationally is fundamental to the approach of the representative sample and its statistical method of random selection. However, the ''likelihood of finding contaminants'' factor is accommodated by the step-wise three-tiered approach of Pre-Screen Testing, Screening Survey and Assessment Monitoring.

5. State Plans for the Representative Sample

As discussed above, section 1445 (a)(2)(C) allows States to develop State Monitoring Plans (also referred to as ''State Plans'') to assess the occurrence of unregulated contaminants for small systems in the State. EPA believes that the development of State Plans is affected by two other considerations: (i) The State plans must fit together into a national representative sample so that it is, in fact, nationally ''representative,'' and (ii) EPA will pay for the reasonable costs of testing and laboratory analysis necessary to carry out monitoring under State Plans, pursuant to section 1445(a)(2)(C)(ii).

(a) Representative State Plans

To have representativeness at the national level while at the same time allowing each State to develop a ''State Plan,'' the testing for which will be funded by EPA, the Agency proposes the following approach: Based on a statistical random selection process applied to all CWS and NTNCWS nationally using the average population served by systems and water source type (surface or ground water to ensure geographic coverage) within service-size category (25–500, 501–3,300, 3,301–10,000 persons), EPA will select at least twice as many CWS and NTNCWS as required for the national representative sample to allow for replacements of systems, if necessary. EPA will use a random number generator to select these systems. These systems will be divided into an ''initial plan'' list and a ''replacement list.'' The representative sample will be allocated on a State basis, considering the number of persons served by each service size category and water source type. The ''initial plan'' list of systems will identify those systems tentatively selected by EPA for each State. For the State plan, the State can adopt the EPA-selected systems on the ''initial plan'' as its plan, or review the list to determine which systems should be removed from the list because of such factors as closure, merger, or water purchase arrangement and submit a modified plan. The State would then select the next water system(s) from the ''replacement list'' to replace the system(s) removed, thus creating a ''modified plan.'' The State, in either case, would inform the EPA Regional Office of the State's choice of plan (i.e., ''initial'' plan or ''modified'' plan) along with reasons for removing and replacing systems on the ''initial plan'' within 60 days of receiving the ''initial plan.'' If EPA has not received a response from the State, the EPA Regional Office will consult with the State before adopting the ''initial plan'' for that State as its State Plan. The State Plan would include a process for the State to inform the public water systems of their selection for the representative sample once the State has accepted the initial plan or prepared the modified plan and informed the EPA Regional Office of this action. The EPA Regional Office would inform systems if the State chooses not to accept or modify the initial plan. This approach ensures a nationally representative set of systems and allows a State flexibility to modify EPA's ''initial plan'' with minimal burden. EPA would develop and provide initial plans to States and Tribes in the first half of year 2000 to allow sufficient time for State/Tribal review and modification, and for informing systems selected for the State Plans.

Statistical Approach. Under today's proposal, the representative sample of small public water systems would be composed of a subset of systems which, in the aggregate, represent the public water systems of the three small system size categories within the United States. Within a State, public water systems would need to be selected so that the proportion of persons served by the systems sampled is as close as possible to the proportion of persons served by that system size category within that State. The portion of the national representative sample within a State's boundaries would become that State's Monitoring Plan, after review and possible adjustment by the State. The number of systems to be sampled in each State would be proportional to the percentage of persons served by public water systems of that size in the United States who reside within that State.

For the small systems considered, a representative sample size of approximately 800 systems would provide a confidence level of 99 percent with an allowable error of plus or minus 1 percent. This number of systems is statistically derived to allow population weighting for exposure assessment, with results being useful for analysis of contaminant occurrence at small systems, as well as a national analysis of all system sizes. EPA would allocate systems to each State, water source type and system size using an average number of persons served divided into the population served by systems serving 10,000 or fewer persons in each system size category. This approach ensures that each State has systems allocated to it for its State Plan. To accomplish this distribution of systems to each State, EPA would add to the statistically derived number for the representative sample a sufficient number of systems to allow this allocation for each State to have a plan that would then fit into the national representative sample. EPA would also add systems for NTNCWSs to be represented as a distinct group for the purposes of exposure assessment. Once monitored, the results of the representative sample of small systems would then be combined with large system results in an overall national analysis of contaminant occurrence in systems. EPA believes that this sample size would provide an adequate level of confidence, considering size, type

(community and non-transient non-community water systems), and location. EPA also believes that this approach provides sufficient information for the decision processes drawing on UCMR monitoring data for systems serving 10,000 or fewer persons, while keeping testing costs at a manageable level for the contaminants in List 1 for Assessment Monitoring. This number of systems should be sufficient to evaluate statistically whether a contaminant occurs in a specified number of systems, such as 2 or 3 percent. This number of systems, confidence level and allowable error will enable EPA to: (1) Evaluate the statistical significance of contaminant occurrence with low frequency and (2) compute the percent of systems for occurrence nationally, combining the results of both small and large systems.

Further rationale for using a small estimate of the number of systems and small allowable error (confidence interval) in calculating the number of systems to be included in the representative sample is provided in the monitoring results from previous unregulated contaminant monitoring under the existing program. EPA has results from over 28,000 systems from the unregulated contaminant monitoring activities of 1988 to 1992 (the first round of unregulated contaminant monitoring under the current program) that indicate that of the 34 contaminants required to be monitored at that time, 30 had occurrence at less that 2 percent of systems and, of those, 27 had occurrence at less than 1 percent of systems. Ten of these contaminants were selected for the Contaminant Candidate List ''Regulatory Priorities'' (see Table 2) and all of these contaminants had occurrence at less than 2 percent of systems and eight, at less than 1 percent. Of the eight occurring at less than one percent of systems, four have health effects values within the concentration range of contaminant occurrence (Bromomethane (a pesticide), 1,3-dichloropropene (a pesticide), Hexachlorobutadiene (a solvent), and 1,1,2,2-Tetrachloroethane (a solvent)), and consequently may be considered for future regulation. These data point up the need to focus at the low end of occurrence. It also points to using a small allowable error (confidence interval) to ensure that based on statistics, EPA comes to the right decision on whether or not to regulate these contaminants, once the Agency has compared the results to health effects data.

EPA also proposes that State Monitoring Plans include a representative sample of systems for Screening Survey monitoring of List 2 contaminants. The number of these systems, selected through the same statistical process from the systems used to conduct Assessment Monitoring, would be smaller (perhaps about 300) because the purpose of the Screening Survey is to test for contaminant presence in systems rather than testing for concentrations in an established percentage (such as 2 or 3 percent) of systems, as is the case for Assessment Monitoring. For the Screening Survey, if any low percent (e.g., 0.5 percent) of systems have an occurrence of a contaminant, then the contaminant would be considered to occur at a level that would indicate that it should be included in the next round of Assessment Monitoring.

If, based on prior information (e.g., from a Screening Survey or Pre-screen Testing), EPA determines that a more likely percent of systems with occurrence, another statistical confidence level and/or allowable error can provide scientifically defensible monitoring results, then EPA may apply a different likely percent of systems, confidence level, and/or allowable error to determine a smaller representative sample size. The statistical approach for specifying the number of systems by water source type (ground water, surface water or ground water under the direct influence of surface water) is as follows.

The number of systems, n, required in the representative sample is determined by the allowable error (±d) around the estimate for p, the proportion of systems which exceed a criteria (e.g., detection level) of interest. Based on the binomial distribution in statistics, the number of systems n which must be sampled for a likely proportion p of systems with contaminant occurrence within the allowable error d with confidence (1 − a) is:

$$n = \frac{z^2_{(a/2)} p(1-p)}{d^2} \qquad (1)$$

The number of systems to be sampled, n, does not depend on the total number of systems available. The number from the standard normal distribution, z, is obtained from a table of the standard normal distribution, representing a collection of data following a ''bell-shaped curve'' which have a (standardized) mean of zero and standard deviation of one. The significance level, a, is the chance of the statistical interval of interest not containing the true value of the number being estimated, which, in this case, is the percent of systems having occurrence of the contaminants of concern on the UCM List. The true value for the percentage of systems having occurrence of the contaminants of concern can only be known if all systems are sampled, which is not proposed since section 1445(a)(2)(A) requires that only a representative subset of small systems be required to monitor for unregulated contaminants. Using this equation (1), the matrix below presents the required sample sizes for several values of allowable error and confidence level. For the national representative sample, an allowable error of ±.01 at a confidence level of 99% and a likely proportion of systems with contaminant occurrence of 1% was chosen. The possibilities for sample size, confidence level and allowable error considered in developing this approach are:

SAMPLE SIZES FROM A UNIVERSE OF 65,600 SYSTEMS BASED ON—

Confidence level (1 − a)	d, Allowable error			
	.03	.02	.01	.005
90 percent	30	67	266	1,065
95 percent	42	95	380	1,521
99 percent	73	165	659	2,636

EPA believes that a representative sample size of 659 systems to be sufficient to draw conclusions about contaminant occurrence for small systems, based on 99% (.99) confidence level, 1% (.01) allowable error (confidence interval), and target percent of systems having occurrence of 1%. EPA chose a confidence level of 99% because it wanted to be that certain that the true proportion was included in its sample results. A 5% chance that the window of error did not include the true proportion was considered too unacceptable, given the amount of money invested in monitoring and regulatory decisions. Based on the monitoring program, a 1% risk (100–99% confidence) that EPA missed the target was more acceptable.

A small allowable error (narrow confidence interval), such as ±1% (±0.01), is important for evaluating the expected low percentages of systems having occurrence of any of the contaminants because EPA wants to be able to determine when the results of monitoring show that the percent of systems is distinguishable from zero or some other small value close to zero. Determining this outcome will help EPA decide which contaminants should receive primary focus for possible regulation after the results are evaluated with health effects data.

To further consider the implications of the table above, suppose that after sampling these 659 systems, the proportion p which equaled or exceeded a detection level was 4% (0.04). The estimate of the true (unknown) proportion would be 0.04 ±0.01, or 3 to 5 percent. This interval has a 99% likelihood of containing the true proportion of systems having an occurrence of the contaminant of concern. There is a 1% (0.01) chance (a) that the true proportion is outside this estimated interval. A larger allowable error, d, (e.g., 3%) results in a wider estimate window. Knowing only that the proportion is somewhere within a window of 6% (e.g., between 1 and 7 percent) was too large a window of error if the percent of systems having occurrence of the UCM List contaminants is less than 3 percent, which may be possible based on information from previous unregulated contaminant monitoring. In such a situation, it would be difficult to determine whether the percent of systems with occurrence was significantly different than zero or some small number.

Additionally, EPA would increase the representative sample size to 710 to 720 (711 used for calculation purposes here) to ensure that each State received an allocation of small systems, using an average population served (approximately 70,770) divided into the population of each source type and size category within each State, for the representative sample. (The example average population of 70,770 is close to the average population served by large systems.) EPA would also add approximately 80 to 90 systems to the sample size to address occurrence at non-transient noncommunity water systems (using the same average population to allocate systems), with the total number of systems then equaling 790 to 810, rounded to 800. This comparable population allocation facilitates assigning the number of systems to each State in the representative sample.

EPA invites public comment on the use of different confidence levels and/or allowable error (confidence interval) to determine the representative sample size, and the allocation of systems by state, water source type and system size using an average population served should occur, and if so, why and how. EPA also invites public comment on whether and how to allocate proportionally more systems in the representative sample to the size category of 25 to 500 persons served, which represents only two percent of the total population served by community water systems, but includes 64 percent of all community water systems. Since these smaller systems vary considerably in location and access to a water source, allocating more systems to this category may improve EPA's understanding of contaminant occurrence in them.

Initially, EPA had identified 1,800 to 2,000 systems as the sample size for the representative sample. EPA first focused on this sample size considering that the percent of contaminant occurrence could be any value. In particular, requiring a narrow confidence interval around the occurrence level of 50 percent leads to this larger sample size. Upon further reflection and analysis of the results of earlier unregulated contaminant monitoring, it was realized that EPA's primary concern is accurate estimation of low occurrence levels. As a result, the sample size was based on requiring a narrow confidence interval (0.01) with a high confidence (0.99) for occurrences as low as 1 percent (p=0.01). This leads to a sample size of 659 systems. As noted above, EPA proposes to increase the sample size to 800 to incorporate non-transient noncommunity water systems and to have at least 2 sampled systems per State. If higher percentages of systems with contaminant occurrence are observed, the sample size of 800 systems provides a wider confidence interval. For example, if 30 percent of systems having occurrence of a contaminant, this sample size results in a confidence interval of about ±4 percent. Even though the confidence interval is relatively wide, the statistics clearly demonstrate a high rate of occurrence, and if health data indicated major acute or chronic effects for this contaminant, EPA would likely decide to regulate it. With small percentages of systems having occurrence (e.g., 1 to 2%), EPA believes that the statistical approach of using a 99% confidence level and 1% confidence interval will provide sufficient results for decisionmaking for the representative sample of small systems. Furthermore, when the results are combined with those of the 2,774 large systems and evaluated using a 99% confidence level and assuming 1 to 2 percent of systems have occurrence, a confidence interval of 0.4% results, allowing EPA to distinguish very low percentages of systems with occurrence from a zero percent of systems. This circumstance may be important for contaminants with important health effects when deciding whether to regulate them. For the example mentioned above, if 30 percent of systems have occurrence for a contaminant, when the results are combined with those of large systems, the resulting confidence interval is ±2 percent.

The representative sample of 711 systems will be disaggregated to the State level, and further disaggregated by water source type (ground water or surface water) and system size (the three size categories of 25–500, 501–3,300, and 3,301–10,000 persons). The disaggregation by State, water source type and system size is described in the following example.

Example. To determine the number of PWSs to be randomly selected for unregulated contaminant monitoring as part of the national representative sample, the following figures are used as the starting point and are approximations for the purposes of example only:

U.S. population: 265,000,000

U.S. population served by small PWSs serving ≤ 10,000 persons: 50,000,000

U.S. population served by small PWSs divided by 711 (the statistically derived number of 659 systems plus 52 systems for the national representative sample to allow allocation of systems to each State, water source and size category, to the extent possible),

50,000,000/711 = 70,300 persons, the average number or persons that each system selected will represent in the allocation to each state in the representative sample (i.e., the number that EPA would divide into the population served by small systems serving 10,000 or fewer persons to determine the number of systems of that size that must be monitored in the State)

State A population served by small PWSs serving 10,000 or fewer persons equals 1,251,340 persons, which divided by 70,300 persons from the previous step equals 17 systems, the number of systems serving 10,000 or fewer persons that must be included in the State Plan.

State A population served by small PWSs supplied by surface water (SW) or ground water under the direct influence of surface water (GWUDI) equals 449,920 persons.

State A population served by small PWSs supplied by ground water (GW) equals 801,420 persons.

For each water source type (surface or ground water), the population served by small systems is further divided into the size category. The next step is to divide the population in each size category by 70,300 to obtain the number of systems in that size category for the water source type that would be in the State Plan (identified

below as ''State Plan Systems Allocation''). For each water source type, the example results for State A are:

SW/GWUDI SYSTEMS IN STATE A

System size (persons served)	Population served by size category	State plan systems allocation
10,000 to 3,301	281,200 persons	4 systems.
3,300 to 501	154,660 persons	2 systems.
500 or fewer	14,060 persons	0 systems.
Total		6 systems.

GW SYSTEMS IN STATE A

System size (persons served)	Population served by size category	State plan systems allocation
10,000 to 3,301	421,800 persons	6 systems.
3,300 to 500	239,020 persons	3 systems.
500 or fewer	140,600 persons	2 systems.
Total		11 systems.

The total of 6 surface water and 11 ground water systems equals 17 systems, the number in State A's Plan. The replacement list of systems would also be developed and provided at this level of detail.

EPA has prepared a background document titled ''National Representative Sample and State Plans for Unregulated Contaminant Monitoring for Public Water Systems Serving 10,000 or Fewer Persons'' to describe in more detail this selection process presented above and its relation to the State Plans. EPA requests public comment on this proposal and its supporting background document and other approaches that EPA could consider. The background document is available today by calling the EPA Safe Drinking Water Hotline at (800) 426–4791, or by viewing on EPA's Internet Homepage for the Office of Ground Water and Drinking Water (www.epa.gov/ogwdw). Public comments on the background document should be sent to EPA with the heading ''Representative Sample Background Document Comments'' along with comments on this proposed rule.

(b) Systems Selected for Pre-Screen Testing

For Pre-Screen Testing, States would need to specify from 5 up to 25 systems as being representative of systems most vulnerable to the contaminants on List 3. EPA proposes to determine the number of systems to be selected in any State based on the number of persons served by community and non-transient noncommunity water systems in a State. For the systems in this selection that serve 10,000 or fewer persons, EPA proposes that the States modify their State Plans at the time of their selection and notify the EPA Regional Office of their addition to those Plans.

(c) Tribal Water Systems as a Separate Group

Public water systems serving less than 10,000 persons that are located in Indian country would be treated as a single, separate group for the representative sample. The random selection process described above weights systems within water source and size category by population served; as a result, a PWS in Indian country would have the same probability of being selected as any other water system. Because no State has jurisdiction over such systems, EPA will consult with the appropriate tribal government concerning whether any initially selected system should be replaced due to merger, closure, or purchase of water from another system. The resulting set of systems will be the ''state plan'' for Indian country.

(d) ''Index'' Systems

EPA generally has less information about systems serving 10,000 or fewer persons. This lack of information on these systems and their operation affects EPA's ability to tailor regulations to systems of this size. To provide an improved understanding of small systems, EPA proposes to select up to 30 small public water systems as ''index'' sites and conduct Assessment Monitoring at these systems during each of the five years for which the UCM List and national representative sample are established. Index sites would be selected from the systems designated in State Monitoring Plans using a random number generator. EPA would pay for this monitoring, including provision of sample equipment, shipment of samples, testing, and support help to collect samples by sending a field technician to each index system to obtain the samples. The purpose of this sampling would be to provide quality assurance in collection of the samples for the thirty systems, to provide information on the temporal variability that may be encountered during a monitoring cycle, and enhanced understanding of these systems so that their treatment in future regulations would be more reflective of the conditions under which they operate. Owners/operators of index sites would be required to provide data on well and screen depth (if applicable), wells or intakes used at the time of sampling and pumping rates for each well or intake at the time of sampling for unregulated contaminants for use in characterizing the UCM results without monitoring the entire representative sample with this same frequency and schedule. EPA or its representative would collect further information on precipitation, land use and other environmental factors (e.g., soils and geology) to provide the Agency with information on other conditions potentially affecting drinking water quality of small systems. This ''index'' site monitoring will facilitate extrapolation of Assessment Monitoring

results nationally for systems of this size.

A description of the selection process for the ''index'' systems using a random number generator and their monitoring is presented in the background document, noted above, titled ''National Representative Sample and State Plans for Unregulated Contaminant Monitoring for Public Water Systems Serving 10,000 or Fewer Persons.'' EPA invites public comment on this ''index'' system aspect of the proposed UCM program described here.

(e) Other State Data

Any additional sites sampled by States should not be combined with those of the EPA approved State Plan for the purpose of computing national estimates of contamination. While providing useful information for protecting the health of persons using drinking water from these sites, these additional sites would bias the results of the nationally representative set of systems if included with those systems selected using the stated national criteria. However, if the State desired to report the results of such monitoring, EPA could receive the data through the Safe Drinking Water Information System (SDWIS) for input to the NCOD. EPA plans to develop acceptance criteria to allow such data to be placed in the NCOD.

6. Regulatory Options

With respect to the size of the national representative sample, EPA needs to balance the number of systems required for validity with the cost of paying for the testing. EPA believes that the proposed approach balances the number of systems to be tested with the cost and also balances a national representative sample with the allowance for State plans. The proposed approach also relieves States from having to develop the statistical design and specify the systems to be monitored.

EPA has studied and rejected a second option of a regulation that would specify the conditions and criteria under which the States could select the systems in their State. Such an option might have included criteria such as specific numbers of systems for the State Plan by water source type and system size category, operation of a random number generator, and the list of systems to be used. From a scientific perspective, this would not result in a consistent representative sample because implementation of the criteria would likely vary from State to State. The value of the resulting estimates would thus be jeopardized. This would also be more burdensome for the States.

A third option which EPA also studied and rejected is to weight monitoring based on prior knowledge of contaminant use or occurrence, system operation, or other locational information. The concern with this approach is the larger number of systems required to provide the results. If any prior knowledge of the proportion of conditions in each of several categories is known, allotting unequal numbers of samples to each category (or ''strata'') can provide the same overall level of confidence and allowable error while requiring fewer samples for that strata. This is called stratified random sampling. For example, suppose VOCs are known to largely occur in ground waters and not surface waters. This information can be used to apportion samples unequally between ground water and surface water systems such that the overall proportion of contamination can be estimated with fewer samples for those contaminants. Fewer samples would be needed in surface systems where contamination is low because the proportion of contamination does not change much.

Other contaminants such as certain pesticides may occur more frequently in surface waters. Using the same design as for VOCs would result in very poor estimates of the proportion contaminated because few samples would be taken from the conditions where pesticide contamination occurs. So ''tailoring'' designs to reduce the number of systems needed would result in a different set of systems to be sampled for each contaminant group. Some systems would sample for some contaminants, but not others. The total number of systems involved in a sampling design stratified for different contaminants would be greater than for a simpler design, such as the proposal. At this point, not enough is known about some contaminants to adequately stratify a sample. Reactions to stratified designs have been largely negative at Stakeholder meetings. Therefore, one set of representative systems for all contaminants is proposed here, even though it is not ''optimal'' for any single contaminant.

Additionally, some pesticides (e.g. diazinon) on Lists 1 and 2 have been observed to exceed acute human toxicity levels. Although the Agency is proposing a nationwide random survey of small CWS, the Agency notes that such a monitoring program may underestimate pesticide occurrence because of the non-random spatial nature of pesticide use patterns and its relationship to population.

An alternative approach that could address this potential underestimation would be to stratify sampling based on contaminants or contaminant groups (e.g., pesticides, volatile organic compounds and microorganisms) and to target sampling to areas of high pesticide use or expected contaminant occurrence considering available information. Sampling could then be targeted to randomly selected systems in the expected use or most vulnerable areas. Separate statistical designs would need to be developed for each contaminant or contaminant group. Such an approach has the downside, however, of eliminating the capability of having State and size based stratifications for small system sampling. Nevertheless, between the targeted ''upper bound'' type samples and the more geographically representative large system samples, this approach would provide a more sensitive indicator of the potential threat posed by a particular contaminant.

Public comment is specifically requested on this alternative approach to sample site selection.

Another issue with respect to sampling relates to the timing of quarterly samples for surface water supplied systems. Quarterly sampling, even with a targeted vulnerable quarter as proposed, may not capture periods of peak pesticide occurrence in every case and, therefore, may underestimate exposure. An alternative to quarterly sampling for surface water supplied systems would be to sample monthly in the three most vulnerable months (e.g., May, June and July, as in today's proposal) and in one month that is representative of the rest of the year. While this approach might provide a more reliable picture of pesticide occurrence, it may be incompatible with peak occurrence of other contaminants (such as volatile organic compounds) during other months of the year. Furthermore, events of an extremely ephemeral nature may not be of public health significance. EPA requests public comment on the adequacy of the quarterly monitoring approach suggested in this rule and the efficacy of alternative approaches considering representativeness, implementability and cost. Comment is also requested on all aspects relating to the timing and frequency of monitoring, system selection, and targeted monitoring relative to contaminants.

G. Reporting of Monitoring Results

Under the current unregulated contaminant monitoring program, reporting requirements exist at 40 CFR

141.35. Today's proposed regulation replaces those requirements to make the reported results more useful for sound scientific analyses of the occurrence of unregulated contaminants.

1. PWS and State Reporting to EPA

Unregulated contaminant monitoring data is one of four types of data that will potentially be reported to the National Drinking Water Contaminant Occurrence Data Base (NCOD) as required by section 1445(g). The other types of data that may be included in the NCOD are: (1) Regulated Contaminant Occurrence Data below the maximum contaminant level (MCL) but above the minimum reporting level (MRL) (a regulation may be developed to obtain this data during 1999); (2) source water monitoring data; and (3) other data from special studies and research. Since these data will come from varying sources, they may have different reporting requirements. The PWS data from unregulated contaminant monitoring may have the smallest number of data elements to be reported because of the greater level of control over the quality of the data through the laboratory certification programs and the monitoring and quality control requirements proposed today. The uses of UCM program data that support the need for the data elements proposed today are: (a) Identification contaminants for the Contaminant Candidate List, (b) selection of contaminants for future regulation, and (c) development of new national primary drinking water regulations for the selected contaminants.

Under the current UCM program, the State Reporting Guidance for Unregulated Contaminant Monitoring, EPA–812–B–94–001, August 1994, identifies the 12 data elements in Table 8 that should be reported by PWSs to States, and by States to EPA, for each unregulated contaminant sample test result.

TABLE 8.—CURRENT UCMR REPORTING REQUIREMENTS

Data Element	Definition
Public Water System (PWS) Identification Number.	The code used to identify each PWS. The code begins with the standard two-character postal State abbreviation; the remaining seven characters are unique to each PWS.
Sampling Point Identification Number.	An ID number established by the State, or, at the State's discretion, the PWS, and unique to the system for a sampling point. Within each PWS, each sampling point must receive a unique ID number, including entry points to the distribution system as well as other locations within the public water system, such as wellhead, intake, or within the distribution system. The same Sampling Point Identification Number must be used consistently throughout the history of unregulated contaminant monitoring to represent the sampling point. NOTE: This data element is proposed to be combined under ''Water system facility identification number.''
Sampling Point (Station) Type.	The water type represented by the sample. The valid choices are: (a) Finished/treated water. Note: expanded in this proposal to include: (i) Finished Water from treatment system. (ii) Entry Point to the distribution system after treatment. (iii) Within the Distribution System. (iv) End of the Distribution line with longest residence time. (v) Household/drinking water tap. (vi) Unknown. (vii) Other. (b) Raw/untreated water.
Water Source Type	The source type represented by the sample. The valid choices are: (a) Surface water or purchased surface water. NOTE: Expanded in this proposal to include: (i) Stream, and (ii) Lake Reservoir. (b) Ground water under the direct influence of surface water or purchased Ground water under the direct influence of surface water. (c) Ground water or purchased ground water.
Sample Identification Number.	A unique identifier assigned by the PWS for each sample.
Sample Collection Date	The date the sample is collected.
Contaminant	The unregulated contaminant for which the sample is being analyzed.
Analytical Results—Sign	An alphanumeric value indicating whether the sample analysis result was: (a) (<) ''less than'' means the contaminant was not detected or was detected at a level ''less than'' the MRL. (b) (=) ''equal to'' means the contaminant was detected at a level ''equal to'' the value reported in ''Analytical Result—Value.''
Analytical Result—Value	The actual numeric value of the analysis for chemical and microbiological results.
Analytical Result—Unit of Measure.	The unit of measurement for the analytical results reported. (e.g., micrograms per liter, ''μg/L; colony-forming units per milliliter, CFU/mL, etc.)
Analytical Method Number ...	The method number of the analytical method used.
Composite	NOTE: ''Composite'' is on the current UCM Data Element list but is proposed to be deleted from the future UCM Data Element List because compositing is not consistent with contaminant occurrence monitoring.

EPA engaged in an extensive process of stakeholder and technical review when developing the NCOD to identify information reporting requirements that allow data from different sources to be adequately evaluated, compared, and interpreted. The NCOD information requirements process has identified additional data elements that must be considered for UCM reporting with unregulated contaminant sample test results. These data elements are especially important because many of the contaminants may not be routinely tested for and will need sample test data quality indicators to assist in interpreting the results. These additional data elements for the unregulated contaminants, and the reasons EPA is proposing to add them to the reporting requirements, are explained briefly below. EPA is requesting public comment on these additional reporting requirements

identified in Table 7, Proposed Data Elements for the UCMR.

Proposed data element	Definition	Reason for reporting
Public Water System Facility Identification Number—Source Intake/Well, Treatment Plant and Sampling Station.	An identification number established by the State, or, at the State's discretion, the PWS, and unique to the system for an intake for each source of water, a treatment plan and a sampling station. Within each PWS, each intake, treatment plant and sampling point must receive a unique identification number, including, for intake, surface water intake, ground water well or wellfield centroid; and, for sampling station, entry points to the distribution system, wellhead (or wellfield), intake, or locations within the distribution system. The same identification number must be used consistently through the history of unregulated contaminant monitoring to represent the facility.	Identify source water, treatment plant and sampling location for use in evaluating contaminant source controls in regulation development. The source intake/well identification number can be related to latitude and longitude for use in geographic analysis of land use, soils, geology and precipitation for alternative treatment and control analysis. Treatment plant identification number can be related to treatment information for that plant to use in analysis of alternative treatments. Sampling Station identification number will allow the sample test result to be consistently associated with the same sample location over time for trend analysis.
Public Water System Facility Type ..	The facility type represented by the water system facility identification number: (i) Intake (for surface water sources); (ii) Well or wellfield (for ground water sources); (iii) Treatment Plant; (iv) Sampling Station; (v) Entry Point to Distribution System; (vi) Reservoir; (vii) Booster Pumping Station; and (viii) Unknown.	Indicates the type of facility associated with the water system facility identification number to allow appropriate analysis of the results of each sample being taken and tested for alternative treatment analysis.
Latitude of the Public Water System Facility for Source Intake/Well and Treatment Plant.	The east-west coordinate of each source intake, well or wellfield centroid, and treatment plant associated with a sample expressed as decimal degrees.	Used to indicate location of the facility in the watershed to allow analysis of alternative treatments and in relation to the population being served.
Longitude of the Public Water System Facility for Source Intake/Well and Treatment Plant.	The north-south coordinate of each source intake, well or wellfield centroid, and treatment plant associated with a sample expressed as decimal degrees.	Do.
Sample Type	The type of sample collected. Permitted values include: (a) Reference Sample—calibration or QC samples. (b) Field Sample—sample collected and submitted for analysis under this rule. (c) Confirmation Sample—a sample analyzed to confirm an initial contaminant detection. (d) Field Blank—reagent water or other blank matrix placed in a sample container in the laboratory and treated as a sample in all respects, including shipment to the sampling site, storage, preservation, and all analytical procedures. (e) Equipment Blank—samples generated by processing reagent water through the equipment using the same procedures used in the field to demonstrate that the equipment is free from contamination. (f) Split Sample—sample divided into sub-samples submitted to different laboratories or analysts for analysis.	Indicates reference field, confirmation, etc. sample type to ensure that the sample test result is used for the appropriate analysis (e.g., contaminant concentration trends, sample test performance, etc.).
Detection Level	''Detection level'' is referring to the detection limit applied to both the method and equipment. Detection limits are the lowest concentration of a target contaminant that a given method or piece of equipment can reliably ascertain and report as greater than zero (i.e., Instrument Detection Limit, Method Detection Limit, Estimated Detection Limit).	Indicates lowest quantifiable measurement level applied through the method to the sample to allow comparison with other sample test results.
Detection Level Unit of Measure	The unit of measure to express the concentration, count, or other value of a contaminant level for the detection level reported. (e.g., μg/L, colony forming units/mL (CFU/mL), etc.)	Indicates the reporting unit for the detection limit.

Proposed data element	Definition	Reason for reporting
Analytical Precision	For purposes of the UCMR, Analytical Precision is defined as the relative percent difference (RPD) between spiked matrix duplicates. The RPD for the spiked matrix duplicates analyzed in the same batch of samples as the analytical result being reported is to be entered in this field. Precision is calculated as Relative Percent Difference (RPD) between spiked matrix duplicates using, $RPD=[(X_1-X_2)/\{(X_1+X_2)/2\}]\times 100$	Indicates variability among laboratory results as measured by testing replicate field or duplicate spiked samples, and is a key measure of sample test performance.
Analytical Accuracy	For purposes of the UCMR accuracy is defined as the percent recovery of the contaminant in the spiked matrix sample analyzed in the same analytical batch as the sample result being reported and calculated using; %recovery=[(amt. found in Sp—amt. found in sample)/amt. spiked]×100.	Indicates whether test results are within a group of measurements corresponding to the true value of the results, and is a key measure of sample test performance.
Presence/Absence	*Chemicals:* Presence—a response was produced by the analysis (i.e., greater than or equal to the MDL but less than the minimum reporting level)/ Absence—no response was produced by the analysis (i.e., less than the MDL) *Microbiologicals:* Presence—indicates a response was produced by the analysis/Absence—indicates no response was produced by the analysis	Chemicals: Indicates results that do not have a quantifiable value. Microbiologicals: Allows measure under conditions and for microorganisms that are not able to be counted.

Note that ''composite'' is proposed to be deleted from the original set of data elements since the proposed rule would not allow compositing. Since this program is designed to measure actual occurrence of contaminants, compositing (the combining of samples from several sampling points of a water system) would dilute concentrations of contaminants to be measured. Stakeholders supported deletion of compositing as contrary to the objective of UCM.

Also note that ''Public Water System Facility source intake identification number'' is currently required to be reported under existing reporting requirements for the Safe Drinking Water Information System (SDWIS). This proposal would continue this requirement and expand it to include treatment plant and sampling station, but the definition makes specific that it cannot change over time. EPA is not requiring through today's proposal the reporting of treatment data (treatment objectives and processes) since these data are already required to be reported by January 1, 2000, for all systems. (Safe Drinking Water Information System FACT SHEET, Revised Inventory Reporting Requirements, June 1998). Additionally, the source of water in this case is associated with each sample so that the data can be used in evaluating contaminant source controls in a watershed or over an aquifer. An alternative would be to report the ''River Reach'' or ''Aquifer'' for each sample, but that approach would require data to be reported that is not currently required, or not readily available, in the case of aquifers.

The rationale for proposing the inclusion of these data elements is that EPA needs the detailed information concerning the sample test, location, and treatment that would allow the results to be used in making a determination of whether or not to regulate the contaminant. The specific reasons are identified in Table 9. To avoid duplicative and costly resampling efforts, EPA believes that systems should obtain and report the most complete information the first time a sample is tested.

The information requirements process for development of the NCOD identified technical questions that need to be answered in the regulatory process that the UCMR is to support. These data elements are associated with these questions. While the list of data elements would increase by eight (from 12 to 20) if all the data elements are included in today's proposed UCMR (as compared to the existing UCMR), reporting them the first time precludes the need to obtain the information through another process. Because the 1996 SDWA Amendments expanded the determinations and types of analyses that need to be conducted to develop a rule, including these data elements is responsive to the new regulatory environment in which drinking water regulations must be developed.

Because reporting of locational and treatment data may be one time or infrequent, these new data elements will not be a major burden for a PWS. The anticipated reporting frequency for the data elements is as follows:

TABLE 9.—ANTICIPATED REPORTING FREQUENCY FOR DATA ELEMENTS

Current and proposed data element	Proposed frequency of reporting
Public Water System Identification Number	With each sample.
Public Water System Facility (PWSF) Identification Number-Source Intake/Well, Treatment Plant, and Sampling Station.	With each sample.
Public Water System Facility Type	One time, associated with PWSF Identification Number.
Sampling Station Type	One time, associated with PWSF Identification Number for Sampling Station.
Water Source Type	One time, associated with PWSF Identification Number for Source Intake.
Sample Identification Number	With each sample.
Sample Collection Date	With each sample.

TABLE 9.—ANTICIPATED REPORTING FREQUENCY FOR DATA ELEMENTS—Continued

Current and proposed data element	Proposed frequency of reporting
Latitude of Water System Facility for Source Intake/Well and Treatment Plant.	One time, associated with PWSF Identification Number for Source Intake/Well and Treatment Plant.
Longitude of Water System Facility for Source Intake/Well and Treatment Plant.	One time, associated with PWSF Identification Number for Source Intake/Well and Treatment Plant.
Contaminant	With each sample (from the laboratory testing).
Analytical Results—Sign	With each sample (from the laboratory testing).
Analytical Result—Value	With each sample (from the laboratory testing).
Unit of Measure	With each sample (from the laboratory testing).
Analytical Method Number	With each sample (from the laboratory testing).
Sample Type	With each sample.
Detection Level	With each sample (from the laboratory testing).
Detection Level Unit of Measure	With each sample (from the laboratory testing).
Analytical Precision	With each sample (from the laboratory testing).
Analytical Accuracy	With each sample (from the laboratory testing).
Presence/Absence	With each sample (from the laboratory testing).

Three of the additional nine proposed data elements would be one-time or infrequently updated information: Water system facility type, Latitude and Longitude. These three data elements do not need to be reported with each sample once they have been reported by the PWS and State to SDWIS. Water system facility identification number-source intake/well is already required to be reported to SDWIS under other authority. Five of the remaining elements will be supplied by the laboratory and the ninth is the sample type identifier (e.g., field sample, confirmation sample, spiked sample, etc.).

Additionally, EPA proposes to require owners/operators of index sites that are part of State Plans for the national representative sample to provide data concerning well casing and screen depths and pumping rates at each well or intake at the time of monitoring. The reason for this reporting is that it will allow EPA to tailor regulations to systems serving 10,000 or fewer persons by relating sample test results to conditions that affect capture of contaminants by ground water supplied systems.

2. Regulatory Options

Following are the four regulatory options EPA considered for data elements in the proposed UCMR.

(a) Use the existing set of twelve UCMR data elements in the new rule. EPA studied and rejected this option because it is not responsive to the current regulatory needs. With the current data elements, it is not possible to evaluate the performance parameters of the test result that should be compared to other test results from other laboratories or PWSs, at least when considering and reporting detection levels. The locational information not in the existing data elements is important in conducting exposure assessments and evaluating alternative treatment and control measures. Similarly, associating treatment plant information with the sample test results is critical in considering treatment and control alternatives.

(b) Add only the sample analysis data elements. This option would improve the ability to evaluate and compare the results among themselves, but would not facilitate exposure, technical, and implementation considerations being addressed in this effort. The drawback of this option for contaminants of concern is that additional information would need to be obtained through special studies or surveys, which can be expensive. This would slow the regulatory process for a contaminant that needs to be regulated.

(c) Add the sample analysis and locational data elements. This option would allow better evaluation and comparison of test results and facilitate exposure assessments, but not allow treatment evaluations to be done.

(d) Use all the data elements identified above. EPA has selected this option because it would allow better evaluation and comparison of test results, as well as facilitate exposure assessments and regulation development. The capability of associating treatment information with sample test results through the Public Water System Facility Identification Number would be included in the reporting, with the expectation that no or only minor treatment studies targeted to the specific contaminants would need to be conducted. The locational information (Latitude and Longitude) associated with the Public Water System Facility Identification Number for intakes and wells (or wellfield centroids) and treatment plants would enable analysis of alternatives for treatment and control measures at the facility or in the watershed for contaminant best management practices. This option is fully responsive to the current regulatory environment.

Options (a) through (c) were rejected because they would require EPA to return to the PWS to obtain additional information necessary to meet the objectives of unregulated contaminant monitoring. This second action would increase the burden of EPA and the PWS. Attempting to associate information with a sample after the original monitoring event does not ensure that the correct data is properly obtained and associated with the sample, jeopardizing any subsequent analyses.

3. Timing of Reporting

EPA proposes in this rule in § 141.35(c) that PWSs report to States or the primacy agency the monitoring results within ten days of their receipt. This proposal is consistent with compliance reporting requirements under § 141.31. EPA also proposes that States report electronically to the National Drinking Water Contaminant Occurrence Database (NCOD) (§ 142.15(c)(3)) to be maintained by EPA by the quarter following their receipt of the data from PWSs.

4. Method of Reporting

SDWA section 1445 (a)(2)(D) states that each PWS that conducts monitoring of unregulated contaminants must provide the results of the monitoring to the primary enforcement authority for the system. Today's proposed rule requires electronic reporting by PWSs to States (§ 141.35(b)) or the primary enforcement authority, and by States to EPA (§ 142.15(c)(3)). The proposal does allow the primary enforcement authority to specify another method for reporting by a PWS. Stakeholders

supported this approach. Note that EPA will pay for the testing and laboratory analysis of samples for small systems in State Monitoring Plans. Since EPA intends to establish electronic recordkeeping of the results from systems in State Plans, electronic reporting for these systems would be done through the assistance of EPA. A State might consider specifying another method for reporting when a system serving over 10,000 persons has not developed the capability to report electronic results. However, most laboratories have this capability and could probably provide this service for the PWS.

With respect to electronic reporting by States to EPA, the Agency has determined that ninety percent of the States now have the current unregulated contaminant monitoring data in electronic format and could provide it in that form. Since most States rely on electronic reporting to manage the significant amount of data they possess, EPA proposes that all States report electronically. EPA will consult with States that do not have this capability to determine other options for obtaining electronic reports of their data to comply with this proposed requirement.

5. Public Notification of Availability of Results

SDWA section 1445 (a)(2)(E) requires notification of the results of the UCMR program to be made available to persons served by the system. The results of UCMR monitoring for CWSs will be reported through the Consumer Confidence Reports (CCR), pursuant to SDWA section 1414(c)(4)(B) and the final regulation recently published in the **Federal Register** and, for non-community systems, through the revised public notification rule to be proposed in mid-1999. Failure to monitor for unregulated contaminants required through the UCMR will also be reportable under the public notification rule.

The results that would be reported through the CCR and public notification rules should be based on the same monitoring data that the States would receive under the UCMR and would be required to be reported to the NCOD. Information in the NCOD will be available to the public.

6. Voluntary Reporting

EPA also requests public comment on establishing a voluntary reporting program for contaminants that may be monitored and tested for because of local concerns but for which EPA is not requiring monitoring or reporting as part of this rule. The reporting requirements for the contaminants on the proposed Monitoring List would not apply to voluntarily reported data for other unregulated contaminants. However, monitoring data related to contaminants of local or State concern and not on today's monitoring list could be voluntarily reported to the NCOD to assist in determining whether they may be a national problem and should be considered for establishing health-based standards (maximum contaminant levels) or advisories. EPA may consider providing reporting guidance for voluntary reporting of such results. EPA would be interested in integrating local and/or State data at the national level to see whether perceived local concerns have broader national occurrence implications. EPA would comply with the Paperwork Reduction Act in collecting such data.

By August 1999, EPA expects to have the capability to accept such additional data and store it in the NCOD. The data in the NCOD database will be accessible to the public. The voluntarily reported data on contaminants (chemical, microbiological and radiological) would assist EPA in determining which contaminants it should be concerned about nationally for developing the Contaminant Candidate Lists and UCMR Lists in the future. Comments on this proposed voluntary reporting program, separately identified as comments on ''Voluntary Reporting of Other Unregulated Contaminants,'' may be submitted along with comments on today's proposed regulation.

IV. Implementation of Today's Proposal

The implementation of today's proposed regulation has several aspects that will be addressed here in approximate chronological order. These steps include the following: setting an effective date; program delegation; establishing the laboratory testing program; continued research on methods development; determining the national representative sample and associated State plans; conducting the sampling, analysis, and reporting; and modifying the monitoring list. The proposed revised UCMR program is described in Figure 1, ''Proposed Unregulated Contaminant Monitoring Approach. Additionally, a critical part of this program is funding for the testing of the national representative sample of systems serving 10,000 or fewer persons.

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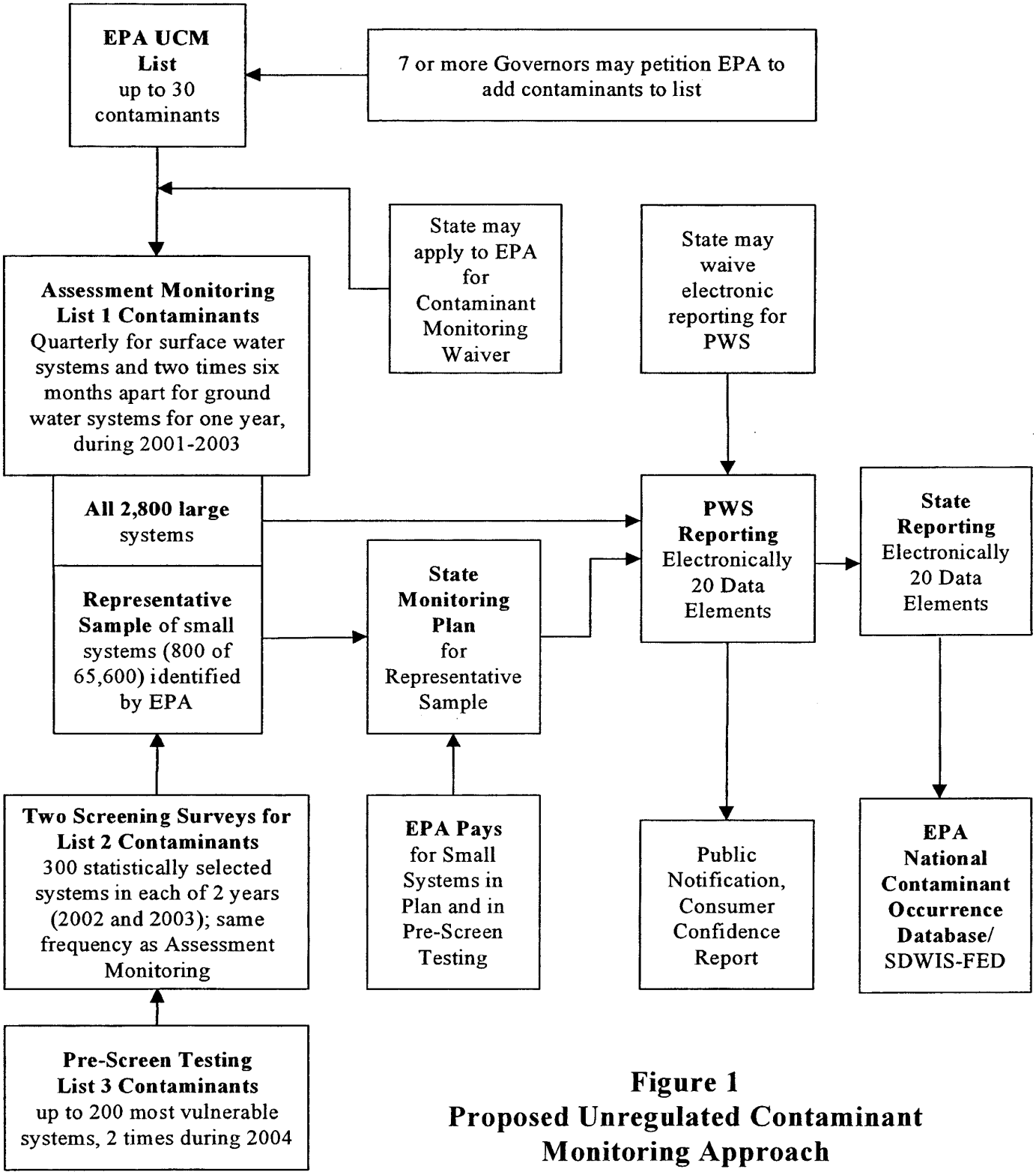

Figure 1
Proposed Unregulated Contaminant Monitoring Approach

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A. Setting an Effective Date

For eleven of the contaminants on the UCMR Monitoring List proposed to be tested under Assessment Monitoring, EPA already has methods for testing that are expected to give reliable and reproducible results. These methods are widely used with the exception of methods for *Aeromonas*, a microbiological contaminant, in the drinking water industry but not necessarily for these contaminants. Testing for these contaminants will, along with other information, help EPA determine whether or not to regulate these contaminants. Results of the UCMR testing should also be available for revising the CCL before the next CCL must be issued (February 2003). Therefore, EPA proposes that the effective date of the UCMR program be January 1, 2001, sixteen months after the expected promulgation of the final rule. This timeframe, sixteen months, is necessary for States to make changes in their programs to allow the testing to occur and for States to review the initial State Monitoring Plans and inform small PWSs of their selection and of their responsibilities for monitoring. EPA will also use this time to set up its laboratory program for testing samples from small systems. Because the contaminants in List 1 to be tested under Assessment Monitoring will have analytical methods currently in use (several methods for compliance monitoring), this timeframe of 16 months (in combination with the assistance provided by the methods and quality control manual) should be sufficient to allow laboratories serving large systems (those providing drinking water to more than 10,000 persons) adequate time to organize and implement the testing program. EPA is taking steps to ensure that methods and quality control manual and contaminant occurrence reporting guidances are in place to allow the program to be implemented at that time. The requirements for small systems and sampling and quality control procedures for all systems are specified in § 141.40(a)(3), (4) and (5) and Appendix A. Figure 2 describes the proposed timing for the implementation of the major components and activities supporting the UCMR program.

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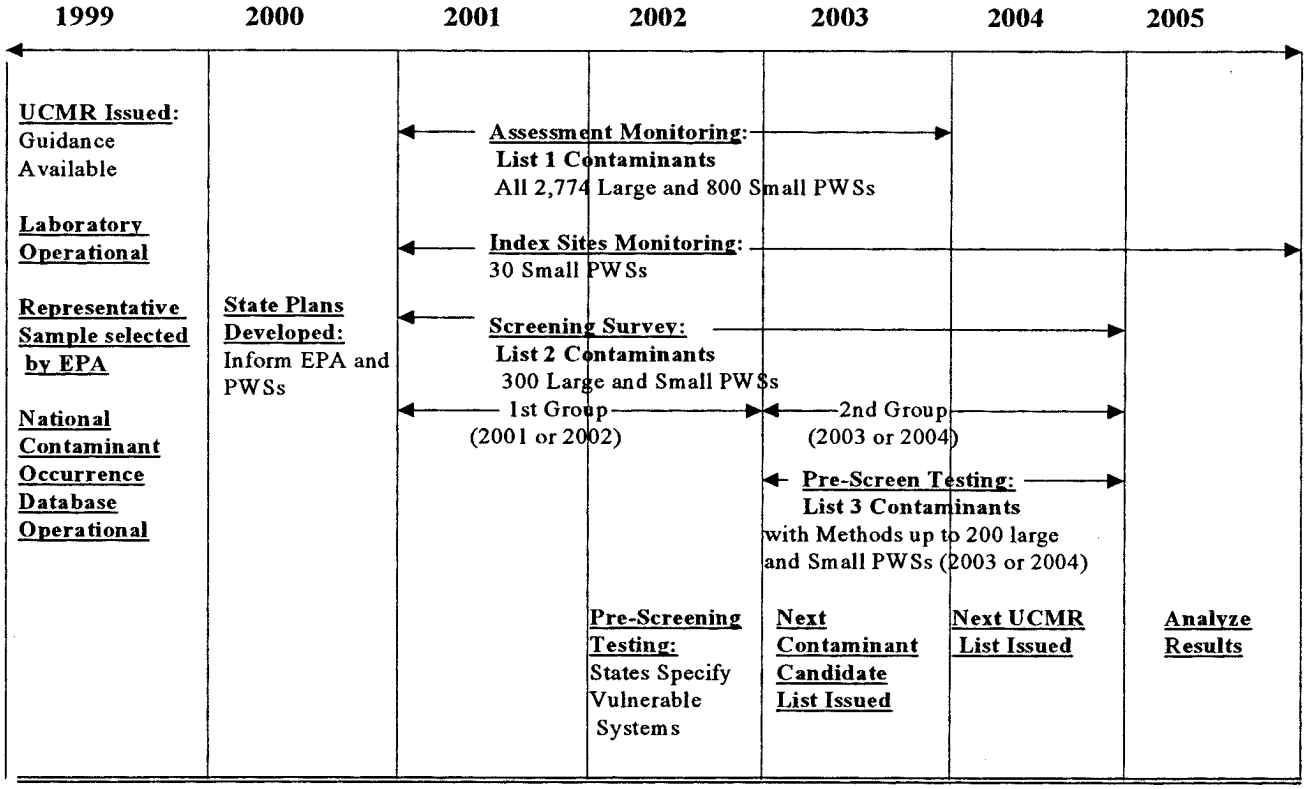

Figure 2
Proposed Implementation Timeline of UCMR and Related Activities

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B. Primacy Program Revision

The UCMR program has historically been a requirement for State assumption of primary enforcement authority (''primacy'') for the PWS program under SDWA. Primacy allows a State to be the primary agency for administering and enforcing the PWS program in that State. EPA believes that today's revision of the UCMR, when final, should also become part of a States's primacy program. Therefore, each State that currently has PWS primacy will need to address any changes in the existing State authorities necessary to implement this revised rule. The procedure for revision of State programs is found in 40 CFR 142.12.

C. Implementation in Indian Country

This proposed rule has several provisions applying to State governments; this preamble section is intended to clarify how these provisions would apply in Indian country and to request comment on EPA's proposed approach. First, with respect to state plans, as explained earlier in the section on designation of the representative sample, EPA intends to include all small systems in Indian country together as a single, separate group. Just as small systems in each State will be selected at random for participation in the UCMR, small systems located

anywhere in Indian country will be selected at random. Instead of notifying the State and allowing the State to select alternative systems due to closure, merger or water purchase, however, EPA will contact the appropriate tribal governments to make sure that the selected systems have not closed or merged and do not buy water from another system. The resulting group of systems will be the ''state plan'' for all Indian country. The appropriate EPA regional office will notify the selected systems of their UCMR responsibilities.

Under the proposal, states can also participate in the UCMR by specifying ''vulnerable'' systems for pre-screen testing, notifying systems of their participation in the monitoring and instructions for testing in lieu of EPA, and petitioning EPA for a monitoring waiver for large systems. EPA requests comment on whether, and to what extent, Indian tribal governments should or want to have these authorities as well. EPA could treat Indian tribes as states for purposes of implementing these authorities under two separate approaches. First, because UCMR is part of the primacy program, tribes that have treatment as a state status for PWS primacy would be able to carry out these authorities for selected systems under their jurisdiction. Second, EPA could amend the treatment as a state regulations to allow tribes to have treatment as a state status for purposes of carrying out these provisions of the UCMR. Under this second approach, a tribe would not need to demonstrate that it qualified for treatment as a state for any other purpose (for example, primacy or grant administration) other than the UCMR provisions. Because these authorities are so limited, EPA doubts that Indian tribes would want to seek treatment as a state for these limited purposes and, as a result, believes option 1 to be preferable. However, if there is significant interest in obtaining this authority apart from primacy, EPA may in the final rule amend the treatment as a state regulations (40 CFR 142.72 and 40 CFR 142.78) to obtain treatment as a state status solely for the purpose of implementing these specific UCMR authorities.

Finally, the statute allows the governors of seven or more states to petition EPA to add contaminants to the UCMR list. EPA requests comment on whether Indian tribal governments should or desire to have the same authority. EPA believes that for this authority, a tribe that has treatment as a state status for either primacy or PWS grant administration should be deemed to have treatment as a state for purposes of petitioning EPA to add a contaminant to the UCMR list. Since the petitioning role is not system specific, a tribe that has demonstrated the capability to administer a PWS grant should also have the capability to assess whether they believe a contaminant should be added to the monitoring list. Therefore, EPA does not expect to make a regulatory amendment to the treatment as a state regulations in order to allow Indian tribal governments to petition EPA to add contaminants to the UCMR list. If EPA decides to treat tribes as states for these purposes, EPA would revise the rule language to provide that seven governors or tribal leaders could petition EPA to add contaminants to the list.

D. Establishing the Laboratory Testing Program

To ensure that sound data are provided for future regulatory decisions, EPA will take three steps in establishing the laboratory testing program: (1) Identifying the methods that must be used to test for the unregulated contaminants under Assessment Monitoring, (2) establishing the laboratory testing program for systems serving more than 10,000 persons, and (3) establishing the laboratory testing program for systems serving 10,000 or fewer persons.

1. Analytical Methods for the Testing Program

The methods to be required are identified in § 141.40(a)(3), Table 1 of the proposed regulation, List 1, Assessment Monitoring. Additional sampling and quality control requirements are identified in § 141.40(a)(4) and (5) and Appendix A. EPA has prepared a draft sampling guidance, ''UCMR Guidance for Operators of Systems Serving 10,000 or Fewer Persons,'' which provides additional details on sampling requirements. EPA has also produced a draft methods and quality control manual, ''Unregulated Contaminant Monitoring Regulation Analytical Methods and Quality Control Manual,'' that provides detailed guidance regarding specific method requirements related to the unregulated contaminants on the Monitoring List. This manual provides additional guidance covering quality control steps for all testing under this program, as described above in ''Monitoring Requirement under the Proposed UCMR.'' These two draft guidance documents are available for review and public comment with this proposed regulation. Commenters can access the documents through Docket Number W–98–02, through the EPA Safe Drinking Water Hotline at 800–426–4791, or through the EPA Office of Ground Water and Drinking Water Internet Homepage. Today's proposed rule would require that systems serving more than 10,000 persons follow the methods and procedures in § 141.40(a)(3), (4), and (5). The draft methods and quality control manual referred to above would provide guidance to these large systems serving more that 10,000 persons in organizing and conducting their unregulated contaminant testing program. EPA will require laboratories that test samples of systems serving 10,000 or fewer persons to also comply with 40 CFR 141.40(a)(3), (4) and (5) and Appendix A.

2. Testing Program for Systems Serving More Than 10,000 Persons

Implementation of today's proposal would only cause Assessment Monitoring of List 1 contaminants. These contaminants have analytical methods currently in use and EPA plans to conduct reviews of laboratories' procedures for unregulated contaminant testing for Assessment Monitoring because of the high data quality requirements of this program.

EPA anticipates that contaminants proposed to be on List 2 for the Screening Survey may be monitored during the five-year listing cycle through separate rulemaking. Under today's proposal, EPA would statistically select approximately 150 large systems that would provide samples to laboratories that EPA has approved to conduct this testing. EPA's approval of a limited number of laboratories to do this testing would include, but may not be limited to, its evaluation of: (1) Laboratory capability, (2) test results of blind samples, (3) experience with similar methodologies, (4) willingness to accept samples from any public water system required to monitor under this regulation, and (5) provision of the testing for List 2 (and List 3) contaminants at a reasonable price to large systems required to do monitoring under this regulation. Large systems selected to be part of the Screening Survey (or Pre-Screen Testing for List 3 contaminants) will be notified by the State or primacy agency prior to the dates established for sample collection and submission for contaminants on List 2. EPA requests public comment on options for the testing of List 2 contaminants of (a) sending samples to laboratories that the Agency has approved for testing List 2 and List 3 contaminants or (b) EPA providing performance criteria for the testing of List 2 and List 3 contaminants

which these systems could use to decide to test at a laboratory of their choosing.

3. Testing Program for Systems Serving 10,000 or Fewer Persons

Based on a competitive selection process, EPA would designate one to five laboratories to conduct the testing for systems serving 10,000 or fewer persons. Under today's proposal, the selected laboratories would test Assessment Monitoring samples from the approximately 800 small systems included in State Monitoring Plans, along with the samples from the index systems, over the five-year cycle for the program. The laboratories would need to be able to provide all necessary sampling equipment to these systems, provide complete yet easy-to-follow instructions on use of the sampling equipment, coordinate the shipping of the equipment and receipt of the returned equipment and samples, provide appropriate sample preservation and testing, and report results to the public water systems, States, and EPA electronically following the reporting requirements of these proposed regulations. EPA will review and evaluate laboratory procedures to ensure that sufficient testing and data quality standards are met. The requirements proposed today and their supporting draft ''UCMR Analytical Methods and Quality Control Manual'' would also apply to these laboratories as conditions of the planned testing contracts that EPA expects to establish with the selected laboratories.

Once future rulemaking occur to implement the Screening Survey for List 2 contaminants, approximately 150 statistically selected small systems would provide samples during two to three years in the middle of the 5-year cycle. The same laboratories testing List 1 contaminants would then also test for List 2 contaminants.

E. Continued Analytical Methods Development

For the contaminants on the UCM Lists 2 and 3, EPA still needs to establish methods that can be widely used at reasonable cost. EPA is setting up a research program through its Office of Research and Development to identify additional methods. As methods are developed, EPA would publish for public comment an amendment to this regulation for the contaminants identified previously for the Screening Survey and Pre-Screen Testing to specify the analytical methods, sampling location, minimum reporting levels applicable to these contaminants, and sampling dates.

F. Determining the National Representative Sample and State Monitoring Plans

For systems serving 10,000 or fewer persons, EPA may only require a representative sample of such systems to monitor for unregulated contaminants in drinking water. Prior to the effective date of the program and not later than six months prior to the start of the Assessment Monitoring program, EPA would identify, through a statistical selection process using a random number generator, up to 800 systems (from a total of approximately 65,600 community and non-transient non-community water systems) serving 10,000 or fewer persons that must monitor and up to 800 alternate systems if replacements are needed. The selection process would allocate systems to each State, giving approximately equal probability to each person's water system being selected within water source type (ground water or surface water) and system size category (25 to 500 persons served, 501 to 3,300 persons, and 3,301 to 10,000 persons). Based on the appropriate number of systems in each State, Tribe or territory (identified by water source type and system size category), EPA would send these first system selections (i.e., the initial State Plan) and the replacement list of alternate systems to each State, Tribe, and territory, as appropriate.

The State, Tribe or territory would have 60 days to review the initial plan and (1) accept the initial plan as its State Monitoring Plan and inform the Regional Administrator of its acceptance of the initial plan along with its process for informing the selected systems of their responsibilities for monitoring; (2) propose deletions from and alternates to the initial plan as its State plan, including the reasons for the changes and the process it would use to inform the systems of their responsibilities, and inform the Regional Administrator of its proposal; or (3) take no action within 60 days allowing the Regional Administrator, after consulting with the State, to specify the final State plan. If a State, Tribe, or territory chooses option (1) or option (2) above, it must submit a description of the process it would use for informing the systems selected of their responsibilities for monitoring, when the process would be implemented, and any necessary modifications to the timing of sampling for each to coordinate with compliance monitoring at the State's discretion. However, a State that chooses no action in the initial plan may still choose to notify selected systems and provide the necessary information. States may also choose an alternate most vulnerable time for systems to sample if different from May through July, as proposed in the rule.

The PWSs which EPA selects through the use of a random number generator to be index sites would also be specified in the initial plan that EPA gives to the State. The replacement list for the initial plan would also be applied for the index sites that needed to be replaced. EPA expects to provide contractor support through the laboratories selected to conduct the testing for unregulated contaminants to collect, ship and test the samples and gather the additional data to support these ''index'' systems. EPA's procedure for selecting these index sites is described in a technical document titled ''National Representative Sample and State Plans for Unregulated Contaminant Monitoring at Public Water Systems Serving 10,000 or Fewer Persons.'' This document can be accessed through Docket Number W–98–02, through the EPA Safe Drinking Water Hotline at 800–426–4791, or through the EPA Office of Ground Water and Drinking Water Internet Homepage at www.epa.gov/ogwdw. EPA requests comment on the selection procedure detailed above and in this document.

While monitoring for List 2 contaminants under the Screening Survey is not proposed by today's action and would not be implemented until a new rulemaking activated these contaminants for monitoring, EPA proposes that EPA provide with the State Plans a list of systems that would conduct monitoring for List 2 contaminants. EPA believes that the methods for the contaminants on List 2 will be ready for use during the first three years of the five year listing cycle and that the Screening Survey will be implemented during that time. EPA would select approximately 300 systems (approximately 150 large and 150 small systems) using a random number generator to specify them at the same time that EPA prepares the initial plan described above. If this survey list was not sent at the same time of the initial State Plan, then EPA would have to provide a second list to each State to implement the Screening Survey. EPA believes that the preparation of a second list is unnecessary. The EPA specification and State review of the Survey list can occur at the same time.

For Pre-Screen Testing, States would need to specify from 5 up to 25 systems as being representative of systems most vulnerable to the contaminants on List 3. The number of systems to be selected in any State would be determined by

EPA based on the number of persons served by community and non-transient noncommunity water systems in a State. For the systems in this selection that serve 10,000 or fewer persons, States would modify their State Plans at the time of their selection and notify the EPA Regional Office of their addition to those Plans.

G. Specifying the Vulnerable Monitoring Period

The State may modify the vulnerable monitoring period specified in § 141.40(5)(ii)(B) applicable to all monitored systems. The State may consider environmental, precipitation, and system factors in changing this vulnerable period. The vulnerable monitoring period may be changed for a single system, a subset of systems or all monitored systems.

H. Conducting the Sampling

(1) All Monitored Systems

All monitored systems must sample for the unregulated contaminants identified on the Monitoring List 1 and should coordinate, at State discretion and to the extent practical, with their compliance monitoring schedule for regulated chemicals. For chemical contaminants, surface water-supplied systems must monitor every three months during a twelve-month period and ground water-supplied systems, two times six months apart in a twelve-month period of the years indicated in column 6 of UCMR Table 1, List 1, § 141.40(a)(3), of every five-year listing cycle. One sample at each entry point to the distribution system after any treatment representing all water sources in use during the twelve-month period or at each distribution system sampling point must be taken during the May-June-July time of the monitoring period, unless the State identifies a more vulnerable time for a particular system, subset of systems, or all monitored systems in the State. In sampling microbiological contaminants, the PWS must monitor at a site in the distribution system representative of the water supplied to the system's service area and at a site near the end of the distribution line with the longest residence time. One sampling event must occur at the most vulnerable time for the system, proposed as May 1 through July 31, or another time designated by the State as the most vulnerable period, and six months later.

In preparing this proposed regulation, EPA sought input of stakeholders on the timing of the monitoring cycle. Their input indicated that most States are on a three-year compliance monitoring schedule, with approximately one third of the systems being monitored each year. EPA proposes to use this same schedule for unregulated contaminant monitoring. The five-year unregulated contaminant listing cycle can be coordinated with the three-year compliance monitoring schedule by starting the next five year monitoring round in January 2001 and taking the samples with any compliance sampling being done, regardless of where the three-year cycle is in a particular State. Sampling in the remainder of the State would be done in the next two years, following the State's compliance monitoring schedule. This proposal means that a system may not be sampling for regulated contaminants during the 5-year listing cycle and may be required to conduct unregulated contaminant monitoring during that time.

(2) Systems Serving More Than 10,000 Persons

For Assessment Monitoring, systems serving more that 10,000 persons would follow the sampling requirements in § 141.40. These requirements are explained further in the draft methods and quality control manual.

(3) Systems in State Monitoring Plans

EPA has drafted guidance, ''UCMR Guidance for Operators of Public Water Systems Serving Less Than 10,000 People,'' on the responsibilities of the PWSs that are part of the representative sample and State Plans. This guidance further explains the requirements for operators of small systems proposed at § 141.40(a)(3), (4) and (5) and appendix A. This guidance addresses sampling instructions including frequency and location, receipt and use of sample equipment, sample shipping to laboratories, review of results, and reporting. States can use the guidance to give schedules and instructions to the systems as part of informing them of their responsibilities to participate in the representative sample and State plan. The draft guidance is available for public comment with this rule. Commenters can access the draft document through Docket Number W–98–02, through the EPA Safe Drinking Water Hotline at 800–426–4791, or through the EPA Office of Ground Water and Drinking Water Internet Homepage at www.epa.gov/ogwdw.

Systems serving 10,000 or fewer persons that are part of the State's representative sample plan must sample at the locations identified in the regulation, similar to the other systems described above. EPA would inform the competitively selected laboratories as to which systems are included in State Monitoring Plans and should, therefore, receive sampling equipment.

A statistically selected subset (ten percent) of systems in State Monitoring Plans would be required to collect duplicate samples for quality control purposes. These systems would follow the same procedures as for the first sample collection.

I. Screening Survey

The Screening Survey is not part of today's proposal, except to publish the List 2 contaminants that may be part of the Screening Survey as part of the EPA revised Unregulated Contaminant Monitoring List. When EPA develops methods for groups of contaminants on Monitoring List 2 for the Screening Survey, the Agency will by rule, after peer review of the analytical methods, require that samples for the List 2 contaminants be collected and submitted by small and large systems for testing. The rule would include a list of which contaminants PWSs would need to submit samples for the Screening Survey. EPA will pay for sample shipping and testing for systems serving 10,000 or fewer persons.

J. Pre-Screen Testing

Pre-Screen Testing is not part of today's proposal, except to publish the List 3 contaminants as part of revised UCM List. Pre-Screen Testing of List 3 contaminants would be implemented after EPA promulgates a rule, after peer review of the analytical methods, specifying the analytical methods, minimum reporting levels, and sample locations and dates for those contaminants. Pre-Screen Testing would be a limited sampling and testing activity, conducted under highly controlled conditions. The EPA Regional Office would send a letter to the State requesting the identification of the vulnerable systems for Pre-Screen Testing. The State would need to submit its selection of vulnerable systems within 60 days of receiving the EPA letter. States would identify, based on the population served by community water systems in the State and the vulnerability of the systems to the contaminant, 5 to 25 large and small systems that they determine to be most vulnerable to the contaminants specified from List 3 in order to identify a national set of up to 200 systems that may be sampled under Pre-Screen Testing. EPA wants to clarify that Pre-Screen Testing would only be representative of the most vulnerable systems and not of all systems in the nation. EPA intends to use these results to determine whether a more

representative monitoring effort should occur through Assessment Monitoring or a Screening Survey, not to generate a national occurrence estimate. However, EPA could elect to proceed directly to a determination to regulate one or more of these contaminants in the event of a clear and present public health threat, based on all available information.

For sampling contaminants that require specific training and skills to ensure the sample integrity, EPA may contract for the sampling, only requiring the PWS owner/operator to provide access to the sampling locations. EPA would pay for sample shipping and testing for the small and medium systems participating in Pre-Screening Testing, and would report the results to the PWS and State for review before allowing public access through the NCOD. Large systems would pay for the sampling, sample shipping and testing of these contaminants at EPA approved laboratories and report the results to the State for review and submission to the NCOD.

K. Testing

As discussed above, EPA has prepared a draft methods and quality control manual for the sampling and testing of the contaminants on the monitoring list that would, after public comment, be distributed to States and made generally available. This manual provides guidance on the requirements proposed in § 141.40(a)(3), (4) and (5) and appendix A. Laboratories that are conducting testing for these contaminants at the request of the public water systems would need to follow the requirements in § 141.40, Appendix A and the methods in the manual. EPA expects to set up a program to review methods implementation and performance of the participating laboratories.

For public water systems serving 10,000 or fewer persons that are included in State Plans, EPA would identify from one to five laboratories through a competitive process that would test for unregulated contaminants for this category of systems. EPA is doing this so it can pay the testing costs for small systems. EPA intends to issue a ''request for bids'' in 1999 for laboratories that desire to be considered for selection as one of the laboratories which will test the unregulated contaminant samples from these small systems. The first samples are expected to be available for testing after January 1, 2001.

L. Reporting Requirements

The results of the testing of any sample under the unregulated contaminant monitoring program would need to be reported along with the 20 data elements identified in the proposed regulation. EPA proposes that PWSs report electronically to States, unless the State, or EPA if the State does not have enforcement authority, specifies alternative reporting requirements. EPA also proposes that States report these results to EPA electronically. EPA encourages all laboratories that perform unregulated contaminant testing for public water systems to report results electronically. Under today's proposal, small PWSs included in State Plans will need to report the first nine data elements: PWS identification number; public water system facility identification number for source intake/well, treatment plant and sampling station; sampling station type; water source type; sample identification number; sample collection date; latitude of public water system facility for source intake/well, and treatment plant; and longitude of public water system facility for source intake/well and treatment plant to the EPA laboratory conducting the testing. The remaining data elements must be reported to the PWS by the laboratory. The State or EPA Regional Office may identify another reporting method for public water systems within its supervision, such as a standard hard copy or paper format that could be electronically scanned to put the data into an electronic format for computer storage, retrieval, and use. EPA requests public comment on alternative ways to report these data, instead of reporting electronically. EPA intends to provide States reporting guidance in ''Unregulated Contaminant Monitoring Reporting Guidance,'' that may include a standard hard copy format that systems could use if the State or EPA Regional Office waives the requirement to report electronically. This draft guidance is available for public comment through Docket Number W–98–02, through the EPA Safe Drinking Water Hotline at 800–426–4791, or through the EPA Office of Ground Water and Drinking Water Internet Homepage at www.epa.gov/ogwdw. States would be able to report unregulated contaminant data electronically to the EPA Safe Drinking Water Information System (SDWIS). SDWIS would have a storage area for the National Contaminant Occurrence Database (NCOD) to which unregulated contaminant data would be routed electronically.

M. Record Keeping

The PWS and the State would continue to have responsibilities for record keeping for the data from unregulated contaminant monitoring as currently required under § 141.33 for the PWS and § 142.14(a) for the State.

N. Modifying the Monitoring List

As required in Section 1445, every five years, EPA will modify today's proposed Table 1, Unregulated Contaminant Monitoring List, to include contaminants of greatest concern at that time. If EPA still requires additional data for some previously listed contaminants, those contaminants may remain on the list. As discussed previously, EPA is requesting public comment on maintaining a monitoring list with more than 30 contaminants, but only requiring monitoring for 30 contaminants within a particular five-year contaminant listing cycle.

States can also request a change to the Monitoring List through petition by seven or more governors. Their petition must clearly show that the proposed contaminant should be considered a greater health concern than other contaminants on the Monitoring List. The petition should also provide any available information on known or expected occurrence of the contaminant in drinking water, analytical methods that are or could be used to test for the contaminant(s) and other information that would assist EPA in determining whether the contaminant(s) should be added to the List. The EPA Administrator would make a determination as to whether the contaminant proposed is of greater health concern to warrant putting it on the Monitoring List in place of another contaminant.

O. Funding for Testing of Samples for Systems in State Monitoring Plans and for Pre-Screen Testing

EPA will pay for small system costs of sample testing. Grants to pay for a system's sample testing can only be made for monitoring costs that are incurred pursuant to a State Monitoring Plan. EPA considers the public water systems serving 10,000 or fewer persons included in State Plans as the grantee (recipient of the grant). The Agency can contract to establish the necessary laboratory testing capability, then grant the laboratory's services to the public water systems. EPA proposes to make payments to a laboratory, several laboratories, or other testing organizations to conduct the testing and make a grant of their service to these systems. However, because these funds

are authorized within the context of a State Monitoring Plan, any payments to another entity for this testing service would have to be limited to small systems included in final State Plans. To achieve reliability, quality control and consistency of the testing, EPA would specify that samples produced under the State plan must be submitted to a laboratory that meets the requirements in § 141.40(a)(3), (4) and (5) and appendix A, and further described in the methods and quality control manual, and has been approved for this work by the Agency. EPA expects to save up to $2 million per year as compared to the current UCM program through this testing program.

There are two authorizations for funding to carry out SDWA section 1445(a)(2)(C), both of which could be used for testing costs of a State Monitoring Plan for small systems if appropriations are provided. Beginning in fiscal year 1998, the Agency is required to reserve $2 million each year from funds appropriated under SDWA section 1452 Drinking Water State Revolving Loan Fund set-aside to pay for the costs of unregulated contaminant testing. Section 1445(a)(2)(H) authorizes $10 million annually through fiscal year 2003 to carry out all the purposes of the unregulated contaminant monitoring program. This could also include paying for the costs of testing for small systems under State monitoring plans. At this time, $2 million from the set-aside of the Drinking Water State Revolving Fund appropriation for FY 1998 and for FY 1999 are available to be spent to support unregulated contaminant monitoring for small systems. EPA will continue to use this set-aside from the Drinking Water SRF appropriation under SDWA in future budget years to cover the costs of this testing, as well as small system testing under the Screening Survey and Pre-Screen Testing. Should funding levels change for the UCM program, EPA would need to consider how to accommodate reduced funding. In this event, for example, EPA could recalculate the representative sample size to a lower confidence level, commensurate with available resources.

Funding for the monitoring approach described previously is as follows:

(1) Assessment Monitoring—EPA will pay for the sample equipment and shipping, testing, and electronic reporting for systems serving 10,000 or fewer persons. Systems serving more than 10,000 persons would need to pay for their own sample equipment and shipping, testing, and electronic reporting.

(2) Screening Survey—Since the methods in a Screening Survey may not have been evaluated on a multi-laboratory basis but the results would be a representative survey of contaminant occurrence and be consistent with the approach of Assessment Monitoring, large systems would need to pay for testing at a laboratory that EPA has approved for testing the contaminants on List 2. These methods will be peer reviewed to ensure that they can perform adequately before EPA proposes a rule to implement the Screening Survey.

Funding options within the water industry for the Screening Survey may be possible and would need to be considered by the industry itself. EPA would only pay the costs of sample collection, shipping and testing samples from systems serving 10,000 or fewer persons .

(3) Pre-Screen Testing—EPA proposes to pay for the sample collection and testing for small systems only. Large systems would pay for the costs of testing for List 3 contaminants at a laboratory that EPA has approved for testing these contaminants.

V. Relation of the Proposed Regulation to the Existing Regulation

Under a separate action, EPA published a Direct Final Rule on January 8, 1999, which will suspend the existing monitoring requirements for systems serving 10,000 or fewer persons only, beginning January 1, 1999, and until the requirements in this proposed rule are effective. This action modifies the existing regulation ahead of the promulgation and implementation of the proposed unregulated contaminant monitoring rule. The Direct Final Rule's purpose is to allow the systems serving 10,000 or fewer persons to save the cost of a third monitoring round under the existing regulation, which if performed would overlap with monitoring under the proposed revised rule. Today's proposed regulation revisions will entirely replace the existing sections of the Code of Federal Regulations at 40 CFR 141.35, 141.40, and 142.15(c)(3), and modify 142.16. The large systems should already have completed their third round of monitoring, and their fourth round is not due to begin until this rule has been promulgated.

VI. Cost and Benefit of a Revised UCMR Program

A. Program Cost Estimates

Today's proposed regulation would only require that Assessment Monitoring for List 1 contaminants be conducted. The contaminants on Lists 2 and 3 would not be monitored until EPA promulgates rules to activate the monitoring for those contaminants. EPA has estimated the costs of complying with the requirements of the new unregulated contaminant monitoring program (including the List 1, List 2 and List 3 components) in terms of labor costs and non-labor costs. Labor costs pertain to systems, State/Primacy Agencies, and EPA, and include activities such as reading the regulation, notification, sample collection (e.g., at entry points or distribution system sites), reporting, record keeping, and analysis of data. Non-labor costs are primarily incurred by EPA and systems serving more than 10,000 people, and include costs for shipping these samples to laboratories and the sample testing. The Agency will also incur non-labor costs to procure services to conduct quality assurance surveys at contract laboratories and to collect samples at a select number of Index systems (and at small systems selected for Pre-Screen Testing if the full program is implemented). Some of these costs are initial program startup costs which may not need to be replicated in future monitoring cycles.

The details of the cost estimates and their assumptions are presented in the Information Collection Request (ICR) document (ICR No. 1882.01). The ICR document presents estimated costs and burdens for the 1999–2001 period. In addition, a background cost document, titled ''Burden and Cost Calculations for the Unregulated Contaminant Monitoring Regulation'' is attached as an appendix to the ICR, and presents the estimated costs and burdens for the first five-year cycle of the proposed rule. Copies may be obtained from Sandy Farmer by mail at: OP Regulatory Information Division, U.S. Environmental Protection Agency (2137), 401 M St., SW; Washington, DC 20460, by email at: farmer.sandy@epamail.epa.gov, or by calling: (202) 260-2740. A copy may also be downloaded off the Internet at: http://www.epa.gov/icr.

While this proposed regulation would initially only require Assessment Monitoring, the cost estimates presented assume implementation of the full UCMR program. Full program cost estimates assume the Assessment Monitoring program will be supplemented by two one-year Screening Surveys and a more limited one-year Pre-Screen Testing program.

The Assessment Monitoring would be conducted for List 1 contaminants, which include 10 chemicals (i.e., all chemicals in List 1 in the Preamble) and one microbiological contaminant,

Aeromonas. The Assessment Monitoring would be performed over a three-year period and would be conducted by all 2,774 systems serving greater than 10,000 people and by the nationally representative sample of 800 systems serving 10,000 or fewer people.

Once regulations regarding the Screening Survey (List 2 contaminants) are promulgated, two Screening Surveys would be performed to monitor for the List 2 chemical contaminants specified in the UCMR regulations. The first Screening Survey would monitor for the List 2 contaminants for which preliminary sampling and analytical methods are now identified; the second Screening Survey would monitor the remaining List 2 chemicals (assuming suitable methods are available). Each Screening Survey would be conducted for one year and would include a separate representative sample of up to 300 public water systems selected from systems of all sizes. The two samples of 300 systems would be a subset of the systems conducting Assessment Monitoring. The Assessment Monitoring, together with the Screening Surveys, would provide information on the occurrence of all 24 chemical contaminants and one microbiological contaminant on the UCMR list.

The Pre-Screen Testing would be a smaller component of the UCMR program that will gather occurrence data and assess the viability of monitoring for at least three List 3 microbiological contaminants: Cyanobacteria (blue-green algae, other freshwater algae and their toxins), Coxsakieviruses, and Echoviruses. This monitoring would be conducted at a targeted sample of up to 200 systems identified as the most vulnerable to these microbiological contaminants. Again, these systems would be a subset of the systems conducting Assessment Monitoring. These systems would be identified as vulnerable by the States from all large and small systems (CWS and NTNCWS) in each State. From this listing, EPA would randomly select up to 200 systems to implement Pre-Screen Testing. It is estimated that this will be comprised of approximately 150 small systems and 50 large systems. As noted, EPA cannot pre-determine which of the most vulnerable small systems will coincide with those 800 systems selected for the national representative sample for Assessment Monitoring and Screening Surveys. Hence, it is possible that up to 150 additional small systems (for a total of 950) could be involved in the full implementation of the UCMR, if no Pre-Screen Testing systems came from the national sample selected for Assessment Monitoring. However, this situation is unlikely. For the cost and burden estimates discussed here and in Section VIII (Administrative Requirements), EPA assumes that only 800 small systems are included. The number of small Pre-Screen Testing systems does not affect the total cost estimates, but does affect some critical estimates of the cost and burden per system. Assuming only 800 systems presents a conservative, or worst-case, estimate because it evaluates the maximum total costs divided across a smaller number of systems.

Because existing sampling and analytical methods for the List 3 contaminants are problematic, all sampling at small systems would be done by EPA contractors, and all analyses will be performed at EPA selected laboratories. The sampling would be done during a one-year period, likely year four of the 5-year UCMR cycle. Large systems selected to conduct Pre-Screen Testing will be responsible for their own sample collection and for the costs of testing at an EPA approved laboratory.

Assessment Monitoring tasks and activities for monitoring chemicals contaminants follow proposal outlines: surface water systems would sample four times during one year and ground water systems would sample two times during one year in the UCMR cycle; EPA would pay for the testing costs (analytical services, shipping, etc.) for the representative sample of small systems, and these analyses would be performed by selected laboratories; large systems, serving more than 10,000 people, would pay for their own testing, using the laboratories of their choice (following UCMR quality control requirements), and; all systems would, to the extent practical, conduct their chemical sampling coincident with their standard compliance monitoring framework (SMF) to reduce labor burden and analytical costs where possible. The program would also include various quality assurance and quality control measures (e.g., ten percent duplicate samples from the representative systems). *Aeromonas* (a microbiological contaminant) would be sampled by both ground and surface water systems at a frequency of two times in the year of sampling, at two points in the distribution system. Additionally, a subset of 30 small systems, referred to as ''Index Systems'', would be sampled during all five years to assess any temporal occurrence trends, other data variability, or program problems.

Required monitoring frequencies and burden assumptions for the Screening Surveys are the same as those for Assessment Monitoring. Under Pre-Screen Testing, EPA contractors will conduct the sampling at each targeted small system twice during one year, at a maximum of four sampling points per system. Large systems will be required to follow the same monitoring schedule.

Standard assumptions and sources of information were utilized, which are the same as those used in other drinking water program ICR analyses, and include: public water system inventory, number of entry points, and labor rates. For State and some system activities, the labor burden was estimated using EPA's standard *State Resource Model*, which is documented in the *Resource Analysis Computer Program for State Drinking Water Agencies* (January 1993).

Analytical/laboratory services comprise approximately 80 percent of the national costs for a program such as the UCMR. These costs are generally calculated as follows: The number of systems multiplied by the number of entry or sampling points, multiplied by the sampling frequency, and multiplied by the analytical cost. (This calculation is repeated for each separate analytical method). Shipping costs are added to the calculated analytical/laboratory costs to derive the total direct analytical non-labor costs. Instead of assuming that large systems will pay the full analytical cost for Assessment Monitoring, systems are assumed to pay a smaller ''incremental'' analytical costs given UCMR monitoring coinciding with ongoing Phase II/V compliance monitoring. In some cases, UCMR analyses utilize the same laboratory analytical methods that are required for ongoing compliance monitoring. Therefore, when UCMR monitoring and Phase II/V monitoring are conducted concurrently, only incremental fees are charged for analysis of the additional UCMR compounds. With methods that are not currently in use, no cost savings can be realized. The full spectrum of assumptions are documented in the Information Collection Request, as noted.

The costs are averaged to an annual basis for the five-year UCMR cycle of 2001–2005. With this revised rule, the States and EPA would have some one-time start-up costs. Although start-up costs might be incurred before 2001, these costs are included and averaged as part of the five-year (2001–2005) program costs to simplify calculations. Systems will only incur costs during the five-year monitoring cycle. Full program (Assessment Monitoring, Screening Survey and Pre-Screen Testing) cost estimates appear first below. Following the full program costs are the costs for

Assessment Monitoring alone, which is the focus of this proposed rule.

Full Program. The Agency estimates that the average annual labor and non-labor costs associated with the required unregulated monitoring (with the assumptions noted above) are: EPA—$4.0 million, $3.0 million of which is for testing costs of the national representative sample and contractor site visits to Index and Pre-Screen Testing systems; States—$461,500; Systems serving 10,000 or fewer people (from the representative sample)—$19,860; all 2,774 systems serving greater than 10,000—$5.6 million. The total national average annual cost is approximately $10.1 million. Estimated average annual costs (labor plus non-labor) per system for systems serving 10,000 or fewer are approximately $25, and for systems serving more than 10,000 people are $2,000 per system.

Assessment Monitoring. EPA estimates that the average annual labor and non-labor costs of Assessment Monitoring for the 11 contaminants on List 1 are: EPA—$3.1 million, with $2.1 million for testing costs for the national representative sample; States—$461,500; Systems serving 10,000 or fewer people —$17,340; Systems serving greater than 10,000 persons—$4.8 million. The total national average annual cost, on this basis, is approximately $8.4 million. Average annual costs per system for systems serving 10,000 or fewer are approximately $22 per system and for systems serving greater than 10,000 persons are $1,730 per system. (Note that the total State cost is the same in the Assessment Monitoring program as it is in the Full Program. There would be some cost reductions to the States if no Screening Surveys or Pre-Screen Testing were conducted. However, these reductions would be minor since the majority of State UCMR activities will be necessary under the Assessment Monitoring component of the UCMR program. With Screening Survey and Pre-Screen Testing activities, States will need to manage some data additional to that generated by Assessment Monitoring activities. EPA estimates that, at most, Screening Survey and Pre-Screen Testing will account for 10 to 15 percent of State program costs. Thus, this estimate for the State Assessment Monitoring cost is conservative.)

Averaging costs over the entire cycle is not necessarily representative of peak costs, however. The majority of monitoring (and thus cost) is assumed to occur over a three-year time frame, allowing for follow-up work, data review, reporting and analysis. EPA peak year costs (e.g., during the 3 core years of Assessment Monitoring, primarily for the representative sample) are projected to be $4.7 million per year for the full program and $3.7 million for Assessment Monitoring only. Systems serving over 10,000 persons are projected to have peak year costs of about $9.5 million for the full program and $8.0 million for Assessment Monitoring only.

B. Net Costs

The net costs of the revised program were estimated by comparing the new program costs (stated above) with estimated costs for the existing program (baseline). The standard labor rates and activities that were used above were also used for estimating the burden of the existing program. For comparative purposes, the same water system inventory numbers were used. Complete UCMR program implementation was assumed. As a simplifying assumption, all systems serving over 500 people were assumed to conduct the monitoring during the same five-year interval. The existing regulation did not require systems serving 150 or fewer service connections to monitor for unregulated contaminants unless requested to do so by the State. Data in the unregulated contaminant monitoring information system suggest that States required about one third of systems serving 500 or fewer people to monitor; thus, one-third were included in the estimates. The other significant difference is in the list of contaminants.

The existing regulation requires monitoring of the 48 chemicals included in Table 1 of the Preamble. (While 14 of the chemicals in Table 1 were discretionary and not always included in the monitoring, their associated costs are derived from the same analytical method as required for the other unregulated contaminants and the regulated VOCs. Hence, they do not make a substantive difference in the cost estimates.) While there are more contaminants analyzed under the existing rule than under the proposed UCMR, monitoring requirements for the existing UCM program are derived from fewer analytical methods, and all are derived from standard methods used for routine compliance samples.

The proposed UCMR compared to the existing UCM Program—given the above assumptions and a full proposed UCMR implementation over five years—results in an estimated $35.8 million in savings to systems serving 10,000 or fewer. Annual per (small) system costs for those systems that participate in UCMR monitoring will be reduced by approximately $190 per year. Small systems will realize this savings because under the proposed program, none will be required to cover the cost of analysis for the unregulated chemicals (as many do under the existing program). Only those systems that are part of the national representative sample will incur any costs, and those costs will be labor costs only. Under full UCMR implementation, large system costs are increased by almost $14.0 million, primarily due to the increase in laboratory analytical costs. Annual per system costs for large systems are increased by approximately $1,000 per year under the UCM Program.

Baseline cost to the States is estimated to be $7.5 million over the analogous monitoring cycle of 2001 to 2005, plus year 2000 start-up costs. The total savings to States under the UCMR is estimated to be $5.2 million. For States, this savings is attributed to a decrease in required labor. States will be collecting and reporting monitoring data from many fewer water systems since only a representative sample of systems serving 10,000 or fewer people will be involved in the UCMR. EPA costs of running the existing program are estimated at $1.9 million for the analogous monitoring cycle of 2001 to 2005, plus start-up costs. EPA costs are significantly increased under the UCMR, primarily because, as proposed, it will fund all small system UCMR sample shipping and analytical costs.

EPA notes that reductions in costs can also be attributed to the ''Suspension of Unregulated Contaminant Monitoring Requirements for Small Public Water Systems (Direct Final Rule)'' (**Federal Register**, January 8, 1999), which is being issued in conjunction with the UCMR. The Direct Final Rule cancels the monitoring requirements (for systems serving less than 10,000 people) for another round of the existing list of unregulated contaminants, beginning January 1, 1999. This cancellation is being issued because monitoring for the existing contaminants would overlap with monitoring for the revised program. Approximately two-thirds of systems serving between 3,300 and 10,000 will save the costs of monitoring under the existing program (e.g., monitoring costs in 1999 and 2000) by the action of the Direct Final Rule, resulting an approximate system savings of $5.3 million.

C. Benefits

The revised Unregulated Contaminant Monitoring Regulation has significant burden reductions, particularly for small public water systems. The original Unregulated Contaminant Monitoring Program, initiated in 1988, required that all community water systems (CWSs)

monitor for the 48 contaminants listed in Table 1. The States had the authority to waive monitoring for systems serving150 or fewer service connections (although these systems were required to be available for monitoring under the regulation). Analysis of this first round of data (1988–1993) indicates that well over 25,000 public water systems are involved in the existing unregulated contaminant monitoring program. This revised program will involve only 3,574 systems: 2,774 large systems and up to 800 small systems in the nationally representative sample (or possibly up to 950 small systems, depending on the selection of the 150 most vulnerable systems for Pre-Screen Testing and the extent that they would overlap with the 800 systems in the national representative sample). Thus, many fewer systems will be required to monitor than in the past.

Additionally, for systems that will be regulated, fewer contaminants will be monitored; the number of contaminants are reduced by the UCMR rule from the current 48 to not more than 30. EPA will pay for the costs of the testing for the national representative sample, so that each small system selected will have minimal burden. EPA will not pay for the small system costs for collecting the samples and contacting the sample shipping service to pick up the samples. EPA anticipates that it will manage the laboratory testing program for these systems, minimizing time that the PWS will need to interact with the laboratories. Also, the laboratories contracted to perform the analyses will provide electronic reporting services for the small systems that do not have this capability. Thus, even those 800 small systems that are involved will have substantially reduced costs, compared to the past.

In considering the full program, cost savings can also be attributed to the use of the small sample numbers for the Screening Survey and Pre-Screen Testing. The Screening Survey of only 300 systems (across all sizes), and the Pre-Screen Testing of up to 200 systems (across all sizes), will allow statistical and targeted approaches to be applied to emerging contaminants. These early screening approaches will help to determine whether contaminants are occurring in public water systems and whether they should be included in future Assessment Monitoring in the subsequent contaminant sampling cycle. These steps, in place of an approach applying Assessment Monitoring for all 30 contaminants at *all* monitored systems, is projected to save over $50 million per year in future Assessment Monitoring costs for large systems and the EPA.

States will also see a reduction in burden. A substantial portion of State burden is related to the number of systems it must manage in a program. Even though there are some new elements to the revised UCMR, a burden reduction is apparent because there are significantly fewer systems involved, and thus a reduction in required oversight activity (e.g., record keeping, system notification).

Currently, twelve data elements must be reported with each sample. In the proposed rule, a net increase of eight new data elements (for a total of 20) will be required in reporting; the additional elements are included to make the data more useful for analysis. The additional burden to systems and States is minimal, however. Most of the additional elements would be provided by the laboratory, and many of these elements are already routinely recorded by laboratories. To date, EPA has not required that these additional elements be sent on to the State or EPA. The addition of data elements will not present an inordinate burden on the States or systems.

Database modifications will be minimal, since most States have electronic reporting. EPA plans to provide training to States on the review and interpretation of this data. Electronic reporting will facilitate minimal additional reporting burden. Once States have established electronic quality control of the data reported, State quality control review will also be minimal.

The long-term benefits of the revised unregulated contaminant monitoring regulation and program are:

1. Contaminants that do not have significant occurrence in drinking or source water will be identified early which will enable evaluations and decisions to minimize further monitoring and other resources otherwise committed to those contaminants;

2. Contaminants that do have significant occurrence will trigger additional research on health effects and treatment, as soon as practical, to protect the health of persons that may be sensitive to them; and

3. Use of a representative sample of small systems (which comprise the majority of public water systems), can provide a scientifically sound, statistically valid data set that can be used for improved analysis and program decisions at a reduced cost.

VII. Performance-Based Measurement System

In the near future, the Agency plans to implement a performance-based measurement system (PBMS) that would allow the option of either (A) using reference methods in its drinking water regulatory programs or (B) demonstrating and documenting ''performance criteria.'' PBMS would specify performance criteria or objectives that must be met for an analytical method to be considered comparable to a reference method and used broadly by other testing organizations and laboratories. As a result, under PBMS, the requirement to use only Agency specified and approved methods for SDWA regulatory programs would be removed, except for certain method-defined contaminants (e.g., such as Total Coliform and asbestos), and for data gathering prospective to regulation, such as the contaminants in this proposed rule.

As noted above, many of the contaminants of interest for the Unregulated Contaminant Monitoring (UCM) program can be classified as ''emerging'' and thus do not have existing reference methods, much less, performance criteria to describe such methods. The unregulated contaminant monitoring program will enable development of a reference method and performance criteria, as well as collect information about contaminant occurrence. While EPA has gathered single-matrix, multi-laboratory data for the chemical contaminants on the UCM list, monitoring conducted by PWSs would provide additional multi-matrix, multi-laboratory data needed to develop the performance criteria necessary to implement PBMS for contaminants selected for standards setting in future regulations. The UCM testing is designed to develop performance criteria that would be proposed with the MCL, monitoring requirements, etc. for the contaminant. For these reasons, the Agency is proposing to specify the method to be used for UCM testing. Once a contaminant proceeds to standards development as an NPDWR, EPA should have sufficient data and method development information to be able to propose both a validated reference method as well as associated performance criteria, either of which could be used for compliance monitoring of the contaminant under PBMS.

VIII. Solicitation of Public Comment

EPA solicits public comment on all aspects of this proposed regulation and its preamble. EPA knows that the public

comment period (45 days) is shorter than normal because of the statutory deadline. Commenters should know that for this same reason, no extension of the public comment period will be granted.

IX. Administrative Requirements

A. Executive Order 12866—Regulatory Planning and Review

Under Executive Order 12866, (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

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

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

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

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

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a ''significant regulatory action.'' As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

B. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is part of the Agency's overall strategy for deciding whether to regulate the contaminants identified on the Contaminant Candidate List (63 FR 10273). The purpose of today's proposed rule is to ensure that EPA has data on the occurrence of contaminants on the CCL where those data are lacking. EPA is also taking steps to ensure that the Agency will have data on the health effects of these contaminants on children through its research program. The Agency will use these data—both contaminant occurrence and health effects—to decide whether or not to regulate any of these contaminants.

This proposed rule is not subject to E.O. 13045 because it is not economically significant as defined in E.O. 12866 and it does not establish environmental standards intended to mitigate health or safety risks. For the most part, this rule only establishes procedures for monitoring of unregulated contaminants on the Agency's Contaminant Candidate List. However, given EPA's interest in protecting children's health, as part of the provisions in the rule allowing State governors to petition EPA to add contaminants to the Unregulated Contaminant Monitoring List, EPA is specifically asking Governors to include any information that might be available regarding disproportional risks to the health or safety of children. Such information would help inform EPA's decision making regarding future lists.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Potential annual costs of today's action for small entities, including local and tribal governments, are $2.1 million for sample collection, shipping, testing and reporting for Assessment Monitoring, of which EPA will pay 99 percent. Average annual costs to States are projected to be $0.5 million for Assessment Monitoring oversight and reporting (over the 5-year implementation period). Thus, today's rule is not subject to the requirements of section 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirement that might significantly or uniquely affect small governments because EPA will pay for the reasonable costs of sample testing for the small public water systems required to sample and test for unregulated contaminants under this rule, including those owned and operated by small governments. While the covered small public water systems will be required to participate in the unregulated contaminant monitoring program, the most significant cost they would incur—the testing of the samples—will be paid by EPA. The only costs that small systems will pay would be the costs attributed to (1) the labor associated with reading the regulations, guidance and instructions to implement the monitoring requirements, (2) collecting the samples and packing them for shipping to the laboratory (EPA will pay for shipping), and (3) reporting and record keeping. Thus, today's rule is not subject to the requirements of section 203 of UMRA.

D. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the

Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1882.01), which presents estimated costs and burdens for the 1999–2001 period. In addition, a background cost document ''Burden and Cost Calculations for the Unregulated Contaminant Monitoring Regulation'' is attached as an appendix to the ICR, and presents the estimated costs and burdens for the first five-year cycle of the proposed rule. A copy of these may be obtained from Sandy Farmer by mail at OP Regulatory Information Division; U.S. Environmental Protection Agency (2137), 401 M St., SW., Washington, DC 20460; by email at: farmer.sandy@epamail.epa.gov; or by calling: (202) 260–2740. A copy may also be downloaded off the Internet at: http://www.epa.gov/icr.

The information proposed to be collected under a revised UCM Regulation is to fulfill the statutory requirements of section 1445(a)(2) of the Safe Drinking Water Act, as amended in 1996. The data to be collected will describe the source water, location and UCMR test results for samples taken from public water systems. The concentrations of any identified UCMR contaminants will be evaluated regarding health effects and will be considered for future regulation accordingly. Reporting is mandatory. The data is not subject to confidentiality protection.

Burden is defined as 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, verifying, processing, maintaining, 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.

The annual burden and cost estimates described below are for the implementation assumptions described in Section VI, which include the Assessment Monitoring, Screening Survey and Pre-Screen Testing components of the UCMR Program. For this full UCMR Program, the respondents to the UCMR are the 800 small water systems (in the national representative sample of systems serving 10,000 or fewer people), the 2,774 large public water systems, and the 56 States and primacy agents (3,630 total respondents). (As noted, it is possible that up to 150 additional small systems could be involved if all small Pre-Screen Testing systems selected fall outside of the national representative sample. Using an assumption of only 800 systems, however, is a conservative, or worst case, assumption, when estimating the burden and cost per system. Hence, this assumption is used in the following estimates.) The frequency of response varies across respondents and years. System costs, (particularly laboratory analytical costs) vary depending on the number of entry or sampling points. Small systems will sample and report an average of 3.4 times over the 5-year implementation period. Large systems will sample and report an average of 3.0 times over the 5-year implementation period. On average, States will report quarterly. Over the UCMR Program cycle of 2001–2005, the annual average per respondent burden hours and costs are: small systems—1.2 hour burden at $25 per year; large systems—2.0 hours at $57, and $1,950 for analytical costs; and States—194 hours at $7,740 for labor and $500 for non-labor. In aggregate, the average respondent (e.g., small systems, large systems, and the States), incurs an annual average burden and cost of 4.8 hours per respondent, with a labor plus non-labor cost of $1,670 per respondent.

Burden and cost per response for the total program are estimated to be: for small systems—1.7 hour burden at $36 per response; large systems—3.4 hours at $95 for labor, and $ 3,280 for analytical costs; and States—40.3 hours at $1,700 for labor. In aggregate, the average response (e.g., responses from small systems, large systems, and the States) is associated with a burden of 7.0 hours, with a labor plus non-labor cost of $2,460 per response.

For Assessment Monitoring alone, the average burden and response are only slightly less because there is only a subset of the same systems involved in the Screening Survey and Pre-Screen sampling. In summary, for the Assessment Monitoring respondents to the UCMR are the 800 small water systems (in the national representative sample), the 2,774 large public water systems, and the 56 States and primacy agents (3,630 total respondents). The frequency of response varies across respondents and years. Small systems will sample and report an average of 3.0 times over the 5-year implementation period. Large systems will sample and report an average of 2.9 times over the 5-year implementation period. On average, States will report quarterly. Over the UCMR program cycle of 2001–2005, the annual average per respondent burden hours and costs are: Small systems—1.2 hour burden at $22 per year; large systems—2.0 hours at $56, and $1,680 for analytical costs; and States—194 hours at $7,740 for labor, and $500 for non-labor costs. In aggregate, the average respondent (e.g., small systems, large systems, and the States), incurs an annual average burden and cost of 4.7 hours per respondent, with a labor plus non-labor cost of $1,455 per respondent.

Burden and cost per response for Assessment Monitoring only are estimated to be: For small systems—1.7 hour burden at $36 per response; large systems—3.4 hours at $96 for labor, and $2,840 for analytical costs; and States—40.3 hours at $1,700 for labor. In aggregate, the average response (e.g., responses from small systems, large systems, and the States) is associated with a burden of 7.2 hours, with a labor plus non-labor cost of $2,210 per response.

The Agency estimates the annual burden to EPA for total proposed UCMR Program activities to be approximately 16,290 hours, at an annual labor cost of $651,600. EPA's annual non-labor costs are estimated to be $2.5 million for Assessment Monitoring only, or $ 3.4 million for the total UCMR program (Assessment Monitoring, Screening Surveys, and Pre-Screen Testing).

Non-labor costs are primarily attributed to the cost of sample testing for the 800 small systems. Annual burdens, as discussed, are based on a 5-year monitoring cycle.

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. Comments are requested 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. Send comments on the ICR document to the Director, OP Regulatory Information Division, U.S. Environmental Protection Agency (2137), 401 M St., SW., Washington, DC 20460, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW., Washington, DC 20503, marked ''Attention: Desk Officer for EPA.'' Include the ICR number in any correspondence. Since OMB is required

to make a decision concerning the ICR between 30 and 60 days after April 30, 1999, a comment to OMB is best assured of having its full effect if OMB receives it by June 1, 1999. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

E. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), EPA generally is required to prepare a regulatory flexibility analysis describing the impact of the rule on small entities as part of rulemaking. However, under section 605(b) of the RFA, if EPA certifies that the rule will not have a significant economic impact on a substantial number of small entities, EPA is not required to prepare a regulatory flexibility analysis. Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b) and for the reasons set forth below, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities.

For purposes of RFA analyses for SDWA rulemakings, the Agency defines small entities as systems serving 10,000 or fewer customers. Because this is the system size category specified in SDWA as requiring special consideration with respect to small system flexibility, EPA established systems serving 10,000 or fewer persons an alternative small entity definition for SDWA drinking water rules for the purposes of regulatory flexibility analysis. This alternative definition was established for all drinking water rules in the Consumer Confidence Reports rulemaking (63 FR 44511–44536 (August 19, 1998)). EPA also consulted with the Small Business Administration about the alternative definition as it relates to small businesses. For further information on the establishment of this definition of small entities, see the referenced **Federal Register** notice.

EPA has determined that the UCMR will affect small water utilities, since it is applicable to a subset of small community and non-transient noncommunity water systems. However, the systems impacted limited to a representative sample of approximately 800 small public water systems serving 10,000 or fewer persons, or 1.2 percent of systems serving 10,000 or fewer persons. These systems will be required to conduct monitoring, as specified in the UCMR (i.e., collect and prepare samples for shipping). EPA will assume all costs for testing of the samples and for shipping the samples from these systems to specific certified laboratories located throughout the United States. EPA has set aside $2 million from the State Revolving Fund (SRF) in Fiscal Years 1998 and 1999, and plans to do so into the future with its authority to set aside SRF monies for the purposes of implementing this provision of SDWA.

EPA has estimated the impact of the proposed rule and concludes that the rule will not have a significant economic impact on a substantial number of small entities. The rationale for this conclusion is that EPA plans to pay the full costs of shipping and testing samples for small systems and does not plan, under any scenario, to ask systems to pay these costs. (The costs to these systems will be limited to the labor hours associated with collecting a sample and preparing it for shipping.) EPA will seek to implement an optimum and scientifically credible UCM program that will provide a firm basis for future regulatory decisions.

As noted, it is possible that up to 150 additional small systems could be involved in the unlikely event that all small Pre-Screen Testing systems selected fall outside of the national representative sample. Using an assumption of only 800 systems involved, however, is a conservative, or worst case, assumption, when estimating the burden and cost *per* system; i.e., this allocates the total cost and burden of the full implementation over 800 systems versus 950 systems. Hence, this assumption is used in the following estimates.

EPA evaluated the cost to small entities under two scenarios. Under either scenario, EPA will assume the cost of shipping and testing samples for small systems. The ''full implementation'' scenario assumes full funding from funds set aside from the Drinking Water SRF through the year 2005. The ''limited implementation'' scenario assumes that EPA will fund the costs of the testing with the funds already set aside for this program. Under either scenario, this rule will not have a significant economic impact on a substantial number or small entities. Accordingly, EPA certifies that this rule will not have a significant impact on a substantial number of small entities. Cost summaries for both scenarios are provided below.

Full Implementation Scenario

EPA analyzed the small entity impact for privately-owned and publicly-owned entities separately due to the different economic characteristics of these ownership types. For publicly-owned systems, EPA used the ''revenue test'', which compares annual system costs attributed to the rule to the system's annual revenues. EPA used a ''sales test'' for privately-owned systems which involves the analogous comparison of UCMR-related costs to a privately-owned system's sales. EPA assumes that the distribution of the national representative sample of small systems will reflect the proportions of publicly- and privately-owned systems in the national inventory. The estimated distribution of the representative sample, categorized by ownership type, source water, and system size, is presented below in Table 10.

TABLE 10.—NUMBER OF PUBLICLY- AND PRIVATELY-OWNED SYSTEMS TO PARTICIPATE IN ASSESSMENT MONITORING

Size category	Publicly-owned systems		Privately-owned systems		Total—all systems
	Non-index systems	Index systems	Non-index systems	Index systems	
GROUND WATER SYSTEMS					
500 and under	20	1	76	2	99
501 to 3,300	159	6	72	3	240
3,301 to 10,000	158	7	44	2	211
Subtotal Ground	337	14	192	7	550
SURFACE WATER SYSTEMS					
500 and under	3	0	8	0	11

TABLE 10.—NUMBER OF PUBLICLY- AND PRIVATELY-OWNED SYSTEMS TO PARTICIPATE IN ASSESSMENT MONITORING—Continued

Size category	Publicly-owned systems		Privately-owned systems		Total—all systems
	Non-index systems	Index systems	Non-index systems	Index systems	
501 to 3,300	56	2	25	1	84
3,301 to 10,000	116	5	33	1	155
Subtotal Surface	175	7	66	2	250
Total	512	21	258	9	800

The basis for the UCMR RFA certification under full UCMR implementation is as follows: the average annual compliance costs of the rule represent less than one percent of revenues/sales for the 800 small water systems that will be affected. The EPA estimates that Agency and system costs for implementing small system sampling for the full UCMR program (2001–2005) will be approximately $15.1 million. Since the Agency specifically structured the rule to avoid significantly impacting a substantial number of small entities by assuming all costs for laboratory analyses, shipping, and quality control for small entities, EPA costs comprise approximately 99 percent ($15.0 million) of the total costs. (Note that EPA's contribution to the small system program is assumed to include all small system analytical and shipping costs, as well as all non-labor program support costs.) Table 11 presents the annual costs to small systems and to EPA for the small system sampling program, along with the number of participating small systems during each of the five years of the program.

TABLE 11.—EPA COSTS FOR SMALL SYSTEMS UNDER FULL IMPLEMENTATION OF UCMR

Cost description [1]	2001 (AM)	2002 (AM & SS1)	2003 (AM & SS2)	2004 (AM for Index only & PST)	2005 (AM Index only)	Total
Costs to EPA for Small System Program (including Assessment Monitoring, Screening Survey, and Pre-Screen Testing): quality assurance, ongoing coordination, data analysis, analytical costs, shipping costs, and costs for contractor site visits to small Index and Pre-Screen Testing systems [2]						
	$3,392,183	$3,538,029	$3,533,202	$3,814,617	$752,537	$15,030,568
Costs to Small Systems (including Assessment Monitoring, Screening Survey, and Pre-Screen Testing): additional labor for monitoring or monitoring assistance						
	27,871	26,915	26,915	15,116	2,499	99,316
Total Costs to EPA and Small Systems for UCMR						
	3,420,054	3,564,944	3,560,117	3,829,733	755,036	$15,129,884
Number of Systems to be Monitoring each Year: Non-Index and Index in 2001–2003, Index only in 2004–2005 [3]						
Public	191	191	191	107	21	533
Private	96	96	95	81	9	267
Total	287	287	286	188	30	800

[1] AM = Assessment Monitoring; SS1 and SS2 = Screening Surveys Years One and Two; PST = Pre-Screen Testing.
[2] EPA costs during the year 2001 include some start-up costs that may actually be incurred during the year 2000.
[3] Total number of systems is 800. All 30 Index systems sample during each year 2001–2005. One-third of Non-Index systems sample during each year from 2001–2003. A total of 180 small systems conduct Screening Surveys during each year, 2002 and 2003. 158 small systems conduct the Pre-Screen Testing during 2004. The rows do not add across, because the same 30 Index systems sample during every year of 5-year implementation cycle, and because the Screening Survey systems are a subset of the original sample of 800 systems (e.g., they are conducting multiple types of sampling). Pre-Screen Testing systems may or may not be a subset of the original 800 Assessment Monitoring systems.

System costs are attributed to the additional labor required for reading State letters, monitoring, reporting, and record keeping. Assuming that systems will efficiently conduct UCMR sampling (e.g., coincident with other required monitoring), the estimated average annual per system labor burden for full UCMR implementation will be: $17 (0.8 hours) for ground water systems; and $31 (1.3 hours) for surface water systems. In total, ground water and surface water systems average 1.2 hour of burden per year with an average annual cost of $25. Average annual cost, in all cases, is less than 0.3 percent of system revenues/sales. Therefore, as stated above, the Administrator certifies that this proposed rule, as funded by EPA, will not have a significant economic impact on small entities. Tables 11a and 11b below present the estimated economic impacts in the form of revenue/sales tests for publicly- and privately-owned systems.

TABLE 12a.—UCMR FULL IMPLEMENTATION SCENARIO: ANALYSIS FOR PUBLICLY-OWNED SYSTEMS (2001–2005)

System size	Annual number of systems impacted [1]		Average annual hours per system (2001–2005)		Average annual cost per system (2001–2005)		"Revenue test" [2]	
	Number	Percent of U.S. total	Non-index	Index	Non-index	Index	Non-index (percent)	Index (percent)
GROUND WATER SYSTEMS								
500 and under	5.8	0.01	0.8	3.0	$10.99	$42.78	0.07	0.26
501 to 3,300	41.4	0.34	0.8	3.8	11.44	54.38	0.01	0.05
3,301 to 10,000	42.5	1.77	1.0	4.6	29.29	128.80	0.01	0.03
SURFACE WATER SYSTEMS								
500 and under	2.3	0.12	2.9	0.0	42.49	0.00	0.15	0.00
501 to 3,300	17.9	0.98	1.6	5.2	22.66	75.40	0.01	0.04
3,301 to 10,000	30.5	3.03	1.3	5.0	35.28	140.00	0.00	0.02

[1] Calculated as 1/5 of the Non-Index sample, plus all Index systems for each year from 2001–2005; actual sampling for Non-Index systems takes place over three years, while that of Index systems occurs over each of five years. Since Screening Survey systems are a subset of the Assessment Monitoring systems, this does not affect the average annual number of systems (e.g., these systems are conducting monitoring for two components of the UCM Program at the same time).

[2] The "Revenue Test" was used to evaluate the economic impact of an information collection on small government entities (e.g., publicly-owned systems); costs are presented as a percentage of median annual revenue in each size category.

TABLE 12b.—UCMR FULL IMPLEMENTATION SCENARIO: ANALYSIS FOR PRIVATELY-OWNED SYSTEMS (2001–2005)

System size	Annual number of systems impacted [1]		Average annual hours per system (2001–2005)		Average annual cost per system (2001–2005) [1]		Sales test [2]	
	Number	Percent of U.S. total	Non-index	Index	Non-Index	Index	Non-index (percent)	Index (percent)
GROUND WATER SYSTEMS								
500 and under	21.4	0.05	0.8	3.0	10.99	42.78	0.07	0.27
501 to 3,300	18.8	0.15	0.8	3.8	11.44	54.38	0.01	0.05
3,301 to 10,000	11.9	0.50	1.0	4.6	29.29	128.80	0.00	0.02
SURFACE WATER SYSTEMS								
500 and under	6.5	0.34	2.9	0.0	42.49	0.00	0.19	0.00
501 to 3,300	8.1	0.45	1.6	5.2	22.66	75.40	0.01	0.05
3,301 to 10,000	8.5	0.85	1.3	5.0	35.28	140.00	0.01	0.02

[1] Calculated as 1/5 of the Non-Index sample, plus all Index systems for each year from 2001–2005; actual sampling for Non-Index systems takes place over three years, while that of Index systems occurs over each of five years. Since Screening Survey systems are a subset of the Assessment Monitoring systems, this does not affect the average annual number of systems (e.g., these systems are conducting monitoring for two components of the UCM Program at the same time).

[2] The "Sales Test" was used to evaluate the economic impact of an information collection on small private entities (e.g., privately-owned systems); costs are presented as a percentage of median annual sales in each size category.

Limited Implementation Scenario

Despite the expected $2 million per year budget, EPA recognizes that funding levels vary from year to year and thus cannot guarantee the precise amount that will ultimately be available to implement its UCM program (although a considerable portion of those funds are currently on hand). In the event that an amount commensurate with funding the optimal UCM program (in terms of numbers of small systems sampled and numbers of contaminants analyzed) may not be available, the Agency will adjust the UCM program to accommodate the available funds. This adjustment may necessitate use of relatively fewer sample sites, testing of fewer contaminants, or both. EPA would use a random number generator select a representative sample of systems that would accommodate the available funds.

While the Agency considers the scenario of no additional funding to be unlikely, EPA also evaluated the scenario of "current funds only" for purposes of this RFA analysis. This "current available funds" scenario is the case in which EPA would receive no further funding for small system testing beyond the $4 million that is currently set aside from the State Revolving Funds from Federal Fiscal Years 1998 and 1999. EPA anticipates funding this program such that no small system would incur testing costs as intended in the legislation. Small systems would only be responsible for taking the sample. By analyzing small system impact under such a scenario, EPA can demonstrate that, regardless of funding levels, this rule will not have a significant economic impact on a substantial number of small entities. Given the flexibility of the proposed rule, EPA can ensure defensible results, balanced with available funding.

In the optimal anticipated program, the sample of 800 systems is derived by applying a 99 percent confidence level, with 1 percent error tolerance. To accommodate a $4 million budget, the representative sample of small systems would be reduced to approximately 390 systems. Although this smaller sample size would be less rigorous than the anticipated sample of 800 systems, the sample error would still remain within a range of plus or minus 5 percent. These 390 systems would incur only labor costs for collecting and packing

the samples, while EPA would pay the shipping and testing costs for these samples.

With the currently available $4 million, EPA will be able to fund approximately 48 percent of the planned Assessment Monitoring program for small systems. To estimate the costs under this scenario, it is assumed that only the Assessment Monitoring component of UCMR would be implemented. It is also assumed that the smaller representative sample would be allocated across system size categories in the same proportions as those in the sample of 800 systems, with ten of these systems being Index sites, as seen below in Table 13. Furthermore, preparations for the Screening Surveys, Pre-Screen Testing, and future UCMR cycles are assumed to be dropped, since with limited funds, current implementation would take precedence over planning for further monitoring. Finally, for the cost analysis of this current funds scenario, it is assumed that the national representative sample will reflect the proportions of publicly- and privately-owned systems in the national inventory of public water systems.[1] Because EPA's statistical approach utilizes a random selection process for systems in the national representative sample, publicly—and privately-owned systems should be selected in the same proportions for that sample as they occur in set of all community and non-transient, noncommunity water systems in the nation.

The Agency is concerned that a reduced sample size will reduce the statistical likelihood that the observed contaminant occurrence levels will be representative of actual occurrence across the nation. Because of this, the Agency will actively pursue funding for the full program described in this Preamble.

TABLE 13.—NUMBER OF PUBLICLY- AND PRIVATELY-OWNED SYSTEMS TO PARTICIPATE IN ASSESSMENT MONITORING, FOR LIMITED FUNDING PROGRAM [1]

Size category	Publicly- owned systems		Privately-owned systems		Total—all systems
	Non-index systems	Index systems	Non-index systems	Index systems	
GROUND WATER SYSTEMS					
500 and under	11	0	38	1	50
501 to 3,300	80	2	36	1	119
3,301 to 10,000	79	2	22	1	104
Subtotal Ground	170	4	96	3	273
SURFACE WATER SYSTEMS					
500 and under	1	0	4	0	5
501 to 3,300	28	1	13	0	42
3,301 to 10,000	58	2	16	0	76
Subtotal Surface	87	3	33	0	123
Total	257	7	129	3	396

[1] The Limited Funding Program assumes that the only funds available to run the program are those that are currently in hand—$4 million of set aside funds from Federal Fiscal Years 1998 and 1999. This is a ''worst case'' funding scenario.

Under the limited funding scenario, EPA costs for Assessment Monitoring would primarily be incurred from 2001 to 2003. Systems are assumed to sample during one year of the three-year period, with one-third of systems sampling during each year. However, Index systems are assumed to monitor during each of the three Assessment Monitoring years. The distribution of costs to EPA and small systems over the entire five years is presented below in Table 14.

TABLE 14.—EPA COSTS FOR SMALL SYSTEMS—LIMITED $4 MILLION PROGRAM

Cost description	2001	2002	2003	2004	2005	Total
Costs to EPA for Assessment Monitoring Program: Quality assurance, ongoing coordination, data analysis,						
	$1,367,947	$1,082,341	$1,082,341	$280,422	$186,948	$3,999,999
Costs to Small Systems (Assessment Monitoring): Including additional labor for monitoring or monitoring						
	13,405	11,756	11,756	0	0	36,917
Total Costs to EPA and Small Systems for Assessment Monitoring						
	1,381,352	1,094,097	1,094,097	280,422	186,948	4,036,916

[1] Publicly- and privately-owned systems allocations are estimated using data from the 1995 Community Water System Survey. Publicly owned systems are those that are owned by a city, town, township, village, municipal government, State or federal government, or any other publicly-owned or operated system. Privately-owned systems include those owned by private investors or homeowners' associations.

TABLE 14.—EPA COSTS FOR SMALL SYSTEMS—LIMITED $4 MILLION PROGRAM—Continued

Cost description	2001	2002	2003	2004	2005	Total
Number of Systems each Year: Assessment Monitoring and Index Systems in 2001–2003 [1]						
Public	92	92	92	0	0	264
Private	46	46	46	0	0	132
Total	138	138	138	0	0	396

[1] Rows do not add across because the 10 Index systems sample during each year 2001–2003. One-third of Non-Index systems sample during each year from 2001–2003.

Under this limited $4 million program, EPA costs represent approximately 98 percent of the national cost for the small system sampling program. As in full UCMR implementation, small system costs are attributed to the additional labor required for reading State letter, monitoring, reporting, and record keeping. It is estimated that under the limited program (e.g., Assessment Monitoring only), the average annual per system labor burden will be: $15 (0.7 hours) for ground water systems; and $27 (1.26 hours) for surface water systems. In total, ground water and surface water systems average 0.9 hours of burden per year, with an average annual cost of $19. System burdens here are lower than in the full implementation scenario primarily because no Screening Surveys or Pre-Screen Testing will occur under this scenario.

Through revenue and sales tests, determinations of economic impact are presented below in Tables 14a and 14b, respectively. Under this limited $4 million program, systems will be subject to *less* required monitoring than in the full UCMR program. For both full UCMR implementation and the limited funding scenario, average annual cost is in all cases lower than 1 percent of annual sales/revenues. Thus, even in this worst case, limited implementation scenario, EPA certifies that this proposed rule would not impose a significant economic impact on small entities.

TABLE 15A.—UCMR LIMITED IMPLEMENTATION SCENARIO: ANALYSIS FOR PUBLICLY-OWNED SYSTEMS (2001–2005)

System size	Annual number of systems impacted [1]		Average annual hours per system (2001–2005) (percent)		Average annual cost per system (2001–2005)		"Revenue Test" [2] (percent)	
	Number	Percent of U.S. total	Non-Index	Index	Non-Index	Index	Non-Index	Index
GROUND WATER SYSTEMS								
500 and under	2.2	0.00	0.3	0.6	$4.48	$8.65	0.03	0.05
501 to 3,300	17.1	0.14	0.3	0.7	5.05	9.81	0.00	0.01
3,301 to 10,000	17.2	0.72	0.1	0.8	2.81	23.71	0.00	0.00
SURFACE WATER SYSTEMS								
500 and under	0.3	0.01	0.5	0.0	$7.97	$0.00	0.03	0.00
501 to 3,300	6.0	0.33	0.7	1.1	10.45	16.63	0.01	0.01
3,301 to 10,000	12.6	1.25	0.0	1.1	0.00	30.99	0.00	0.00

[1] Calculated as ⅕ of publicly-owned Non-Index sample, plus all public Index systems for each year from 2001–2003; actual sampling for Non-Index takes place over three years, Index over each of three years.

[2] The "Revenue Test" was used to evaluate the economic impact of an information collection on small governments (e.g., publicly-owned systems); costs are presented as a percentage of median annual revenue in each size category.

TABLE 15B.—UCMR LIMITED IMPLEMENTATION SCENARIO: ANALYSIS FOR PRIVATELY OWNED SYSTEMS (2001–2005)

System size	Annual number of systems impacted [1]		Average annual hours per system (2001–2005) (percent)		Average annual cost per system (2001–2005) [1]		"Sales Test" [2] (percent)	
	Number	Percent of U.S. total	Non-Index	Index	Non-Index	Index	Non-Index	Index
GROUND WATER SYSTEMS								
500 and under	8.0	0.02	0.6	1.9	$8.06	$27.41	0.05	0.17
501 to 3,300	7.8	0.06	0.6	2.1	9.15	30.89	0.01	0.03
3,301 to 10,000	4.8	0.20	0.8	2.6	22.16	73.92	0.00	0.01
SURFACE WATER SYSTEMS								
500 and under	0.8	0.04	1.1	0.0	$15.41	$0.00	0.07	0.00
501 to 3,300	2.7	0.15	1.2	3.2	17.07	46.98	0.01	0.03

TABLE 15B.—UCMR LIMITED IMPLEMENTATION SCENARIO: ANALYSIS FOR PRIVATELY OWNED SYSTEMS (2001–2005)—Continued

System size	Annual number of systems impacted [1]		Average annual hours per system (2001–2005) (percent)		Average annual cost per system (2001–2005) [1]		"Sales Test" [2] (percent)	
	Number	Percent of U.S. total	Non-Index	Index	Non-Index	Index	Non-Index	Index
3,301 to 10,000	3.5	0.35	1.1	3.1	31.35	87.36	0.01	0.02

[1] Calculated as 1/5 of the Non-Index sample, plus all Index systems for each year from 2001–2005; actual sampling for Non-Index systems takes place over three years, while that of Index systems occurs over each of three years.

[2] The "Sales Test" was used to evaluate the economic impact of an information collection on small private entities (e.g., privately-owned systems); costs are presented as a percentage of median annual sales in each size category.

F. National Technology Transfer and Advancement Act

Under § 12(d) of the National Technology Transfer and Advancement Act (NTTAA), the Agency is required to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, analytical methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standard bodies. Where available and potentially applicable voluntary consensus standards are not used by EPA, the Act requires the Agency to provide Congress, through the Office of Management and Budget (OMB), an explanation of the reasons for not using such standards.

In preparing this proposal, EPA searched for consensus methods and the methods found were published by the three major voluntary consensus method organizations, Standard Methods, AOAC International, and American Society for Testing and Materials (ASTM), that would be acceptable for compliance determinations under SDWA for the UCM List. The voluntary consensus methods found are listed in preamble section III.A.1.(c), Analytical Methods Applicable to the Monitoring List. For the Assessment Monitoring portion of the proposed rule, EPA is approving the use of all of the non-EPA analytical methods, adopted by these voluntary consensus groups, that are applicable to the analyses of these unregulated contaminants, when used in conjunction with the required quality-control practices specified in the rule.

For those chemical and microbiological parameters not included in the Assessment Monitoring portion of this proposal, EPA was unable to find either an EPA or voluntary consensus method organization method that was applicable to the monitoring required. In those cases where the contaminant was listed in a consensus method organizations method, the method either used technology that EPA believes is not consistent with modern laboratory practices (large volume liquid-liquid acid base neutral extractions, and packed column chromatography), or the contaminant was subject to rapid degradation in samples stored under the specified conditions. Therefore, EPA is conducting the methods development necessary to establish acceptable methods for the determination of these parameters.

EPA welcomes comments on this aspect of the proposed rulemaking and, specifically invites the public to identify potentially applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

G. Executive Order 12898—Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (February 11, 1994), focuses federal attention on the environmental and human health conditions of minority populations and low-income populations with the goal of achieving environmental protection for all communities.

By seeking to identify unregulated contaminants that may pose health risks via drinking water from all Public Water Systems, the unregulated contaminant monitoring regulation furthers the protection of public health for all citizens, including minority and low-income populations using public water supplies. Using a statistically-derived set of systems for the national representative sample that is population-weighted within each system size category in each State, the proposed rule ensures that no group within the population is under represented.

H. Executive Order 12875—Enhancing Intergovernmental Partnerships

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

EPA has concluded that this rule will create a mandate on State, local, and tribal governments and that the Federal government will not provide the funds necessary to pay the full direct costs incurred by these governments in complying with the mandate. However, EPA will pay for the sample testing costs of small systems serving 10,000 or fewer persons and has set aside funds in its budget to do so.

EPA consulted with State, local, and tribal governments to enable them to provide meaningful and timely input in the development of this rule. Specifically, EPA received input through its public stakeholder process from 21 States and eight large water systems serving more than 10,000 persons, as well as 62 other Federal, State and local government agencies, non-profit organizations, and associations and industry who attended

17 public meetings beginning in December 1996 and continuing through June 1998, in Washington, DC. EPA announced five of these meetings in the **Federal Register** to allow as broad as possible a representation at these meetings, with the remaining meetings being topical meetings of representatives from the public meetings. EPA also sent out nearly 400 targeted mailings directly to 360 tribes, tribal organizations, and small water system organizations to ensure that they were informed of the proposed rule's expected requirements and had an opportunity to comment on these requirements. The principal concerns raised were that: (1) EPA should fund the testing of samples from systems serving 10,000 or fewer persons, and that larger systems should provide their own testing. (2) EPA should implement a monitoring program commensurate with the information needed about and the analytical methods that could reliably be used for the contaminants of concern. (3) EPA should establish as full a list of 30 contaminants as possible to maximize the use of the program. EPA believes this proposal fully addresses these concerns. (4) EPA should consider targeted, rather than representative random, sampling for tribal water systems. EPA is asking for public comment on the issue of targeted monitoring. (5) EPA should consider the applicability of ''treatment as a State'' for Tribes for the purposes of this regulation. EPA is asking for public comment on this issue.

I. Executive Order 13084—Consultation and Coordination with Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Only one tribal water system serves more than 10,000 persons. All the other tribal water systems serve 10,000 or fewer persons and in today's proposal would have an equal probability of being selected in the national representative sample of systems of this size for which EPA will pay the costs of testing of unregulated contaminants. Thus, these tribal water systems would be treated the same as water systems of a State.

This rule will not impose substantial direct compliance costs on such communities either because the Federal government will provide most of the funds necessary to pay the direct costs incurred by the tribal governments in complying with the rule, with the exception of the one large tribal water system. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule. Nevertheless, in developing this rule, EPA consulted with representatives of tribal governments pursuant to both Executive Order 12875 and Executive Order 13084. The extent of EPA's consultation, the nature of the governments' concerns, and EPA's position supporting the need for this rule, are discussed in the preamble section that addresses compliance with Executive Order 12875. Tribes were consulted and raised issues concerning the utility of a targeted, rather than a representative random, sampling approach, and the applicability of ''treatment as a State'' under this proposed rule. The Agency is requesting public comment on these issues. Systems serving 10,000 or fewer persons on tribal lands will have the same opportunity to be selected for participation in the monitoring program as any other system of that size and EPA will pay for the testing costs.

X. Public Involvement in Regulation Development

EPA's Office of Ground Water and Drinking Water has developed a process for stakeholder involvement in its regulatory activities for the purpose of providing early input to regulation development. Activities related to the Unregulated Contaminant Monitoring Regulation included meetings for developing the Contaminant Candidate List (CCL) and the information requirements of the National Drinking Water Contaminant Occurrence Data Base (NCOD), as well as specific meetings focused on revising the unregulated contaminant monitoring program. During the development of the UCMR, stakeholders from a wide range of public and private entities provided key perspectives. Representatives from public water systems, States, industry, and other organizations attended two stakeholders meetings to discuss options directly related to the UCMR. An additional 17 meetings were held with stakeholders and the public concerning issues related to the UCMR. In total, twenty-one State health and environmental agencies, five water systems, six water associations, six health associations, five industrial associations, four environmental organizations, four community and consumer organizations, twenty-nine companies, and seven federal agency offices participated in meetings that were instrumental in the development of the proposed regulation.

As noted above, the CCL identifies contaminants for which EPA may take regulatory action and for which EPA needs additional data. The contaminants for which additional data are needed before EPA can determine their regulatory status include contaminants on the Unregulated Contaminant Monitoring List. The meetings to develop the CCL have included stakeholder meetings to discuss the list broadly and meetings focused on particular issues conducted through the National Drinking Water Advisory Council's (NDWAC) Working Group on Occurrence and Contaminant Selection, as follows:

December 2–3, 1996 Stakeholders Meeting
April 3–4, 1997 NDWAC Working Group
June 23, 1997 NDWAC Working Group
July 17, 1997 NDWAC Working Group
January 7, 1998 NDWAC Conference Call

These meetings resulted in the Drinking Water Contaminant Candidate List (63 FR 10274, March 2, 1998) The contaminants that are proposed in this rule for unregulated contaminant monitoring are taken from the CCL ''Occurrence Priorities.''

The NCOD development activities have included ten public meetings on information requirements that should be considered for inclusion in that data base. These meetings were held from October 1997 to February 1998. The work of the NCOD development team has been incorporated in the preparation of this proposed unregulated contaminant monitoring regulation as the reporting requirements

for sample testing. Several documents are included in the docket for this rule concerning the NCOD development which were used in the public meetings:

Options for the National Drinking Water Contaminant Occurrence Data Base, Background Document (Working Draft), EPA 815–D–97–001, May 1997;

National Drinking Water Contaminant Occurrence Data Base—Development Strategy, Background Document (Working Draft), EPA 815–D–97–005, December 1997; and

Options for Design of the National Drinking Water Contaminant Occurrence Data Base, Background Document (Working Draft), EPA 815–D–98–001, January 1998.

EPA held its first stakeholders meeting to discuss options for the development of the Unregulated Contaminant Monitoring Regulation on December 2–3, 1997, in Washington, DC. A range of stakeholders attended that meeting, including representatives of public water systems, States, industry, health and laboratory organizations, and the public. EPA prepared a background document for the meeting, *Options for Developing the Unregulated Contaminant Monitoring Regulation* (Working Draft), EPA 815–D–97–003, November 1997. A summary of the meeting is also available. Prior to preparation of this proposed regulation, EPA held a second stakeholders meeting on June 3–4, 1998, to obtain input from interested parties on significant issues evolving from drafting the regulation, which needed further public input. EPA prepared a public review document for that meeting, *Background Information and Draft Annotated Outline for a Proposed Unregulated Contaminant Monitoring Regulation,* Background Document, (Working Draft), May 1998. A meeting summary is available. EPA also sent special requests for review of stakeholder documents to more than 360 tribes (exclusive of the Alaskan native villages) and to small systems organizations to obtain their input.

In all, EPA has held 17 public meetings with stakeholders and interested parties related directly or closely to the proposed Unregulated Contaminant Monitoring Regulation.

XI. References

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List of Subjects

40 CFR Part 141

Analytical methods, Chemicals, Environmental protection, Intergovernmental relations, Microorganisms, Monitoring, Water supply.

40 CFR Part 142

Analytical methods, Chemicals, Environmental protection, Intergovernmental relations, Microorganisms, Monitoring, Water supply.

Dated: April 14, 1999.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

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

Authority: 42 U.S.C. 300f, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9, and 300j–11.

2. Section 141.35 is revised to read as follows:

§ 141.35 Reporting of unregulated contaminant monitoring results.

(a) *Does this reporting apply to me?* This section applies to any owner or operator of a public water system required to monitor for unregulated contaminants under § 141.40. This rule requires you to report the results of this monitoring.

(b) *To whom must I report?* (1) You must report the results of unregulated contaminant monitoring to the primary enforcement authority for the public water system program for your state, which will usually be the State drinking water agency, but will, in some parts of the country, be the EPA Regional office. (The primary enforcement authority for a public water system is also known as the ''primacy agency'.) You must also notify the public of the monitoring results as provided in Subpart O (Consumer Confidence Reports) and Subpart Q (Public Notification) of this part.

(2) Exception. You do not need to report results of the screening survey, if you are a system serving a population of 10,000 or less, or the results of a pre-screen test, since in both cases EPA will arrange for testing and reporting of the results. However, you will still need to comply with public notification requirements for these results.

(c) *When do I report monitoring results?* You must report the results of unregulated contaminant monitoring within ten (10) days of receiving the results from the laboratory or within the first ten (10) days following the end of the required monitoring period specified by the primacy agency, whichever comes first.

(d) *What information must I report?* You must report the information specified in the following table:

TABLE 1.—UNREGULATED CONTAMINANT MONITORING REPORTING REQUIREMENTS

Data element	Definition
1. Public Water System (PWS) Identification Number.	The code used to identify each PWS. The code begins with the standard two-character postal State abbreviation; the remaining seven characters are unique to each PWS.
2. Sampling Station Type	The sampling station type from which the sample came. The valid choices are: (a) Finished Water from treatment system. (b) Finished/treated water from Entry Point to the distribution system after treatment. (c) Finished/treated water from Within the Distribution System. (d) Finished/treated water from End of the Distribution line with longest residence time. (e) Finished/treated water from household/drinking water tap. (f) Finished/treated water from unknown location. (g) Other Finished/treated water. (h) Raw/untreated water.
3. Water Source Type	The source type represented by the sample. The valid choices are: (a) Surface water from a stream or purchased surface water from a stream. (b) Surface water from a lake or reservoir, or purchased surface water from a lake or reservoir. (c) Ground water under the direct influence of surface water or purchased Ground water under the direct influence of surface water. (d) Ground water or purchased ground water.
4. Sample Identification Number	A unique identifier assigned by the PWS for each sample.
5. Sample Collection Date	The date the sample is collected.
6. Contaminant	The unregulated contaminant for which the sample is being analyzed.
7. Analytical Results—Sign	An alphanumeric value indicating whether the sample analysis result was: (a) (<) ''less than'' means the contaminant was not detected or was detected at a level ''less than'' the MRL. (b) (=) ''equal to'' means the contaminant was detected at a level ''equal to'' the value reported in ''Analytical Result—Value.''
8. Analytical Result—Value	The actual numeric value of the analysis for chemical and microbiological results.
9. Analytical Result—Unit of Measure	The unit of measurement for the analytical results reported. (e.g., micrograms per liter, µg/L; colony-forming units per milliliter, CFU/mL, etc.)
10. Analytical Method Number	The method number of the analytical method used.
11. Public Water System Facility Identification Number—Source Intake/Well, Treatment Plant and Sampling Station.	An identification number established by the State, or, at the State's discretion, the PWS, and unique to the system for an intake for each source of water, a treatment plant and a sampling station. Within each PWS, each intake, treatment plant and sampling point must receive a unique identification number, including, for intake, surface water intake, ground water well or wellfield centroid, and including, for sampling station, entry points to the distribution system, wellhead, intake, or locations within the distribution system. The same identification number must be used consistently through the history of unregulated contaminant monitoring to represent the facility.
12. Public Water System Facility Type	The facility type represented by the water system facility identification number: (a) Intake (for surface water sources). (b) Well or wellfield (for ground water sources). (c) Treatment Plant. (d) Sampling Station. (e) Entry Point to Distribution System. (f) Reservoir. (g) Booster Station. (h) Unknown.
13. Latitude of the Public Water System Facility for Source Intake/Well and Treatment Plant.	The east-west coordinate of each source intake, well or wellfield centroid, and treatment plant associated with a sample expressed as decimal degrees.
14. Longitude of the Public Water System Facility for Source Intake/Well and Treatment Plant.	The north-south coordinate of each source intake, well or wellfield centroid, and treatment plant associated with a sample expressed as decimal degrees.
15. Sample Type	The type of sample collected. Permitted values include: (a) Reference Sample—calibration or QC samples. (b) Field Sample—sample collected and submitted for analysis under this rule. (c) Confirmation Sample—a sample analyzed to confirm an initial contaminant detection. (d) Field Blank—reagent water or other blank matrix placed in a sample container in the laboratory and treated as a sample in all respects, including shipment to the sampling site, storage, preservation, and all analytical procedures. (e) Equipment Blank—samples generated by processing reagent water through the equipment using the same procedures used in the field to demonstrate that the equipment is free from contamination. (f) Split Sample—sample divided into sub-samples submitted to different laboratories or analysts for analysis. (g) Duplicate Sample—two aliquots of the same sample analyzed separately with identical procedures. (h) Spiked Sample—a sample to which known quantities of the method analytes are added.
16. Detection Level	''Detection level'' is referring to the detection limit applied to both the method and equipment. Detection limits are the lowest concentration of a target contaminant that a given method or piece of equipment can reliably ascertain and report as greater than zero (i.e., Instrument Detection Limit, Method Detection Limit, Estimated Detection Limit).

TABLE 1.—UNREGULATED CONTAMINANT MONITORING REPORTING REQUIREMENTS—Continued

Data element	Definition
17. Detection Level Unit of Measure	The unit of measure to express the concentration, count, or other value of a contaminant level for the detection level reported. (e.g., µg/L, colony forming units/mL (CFU/mL), etc.)
18. Analytical Precision	For purposes of the UCMR, Analytical Precision is defined as the relative percent difference (RPD) between spiked matrix duplicates. The RPD for the spiked matrix duplicates analyzed in the same batch of samples as the analytical result being reported is to be entered in this field. Precision is calculated as Relative Percent Difference (RPD) between spiked matrix duplicates using, RPD = $[(X_1 - X_2)/\{(X_1 + X_2)/2\}] \times 100$.
19. Analytical Accuracy	For purposes of the UCMR accuracy is defined as the percent recovery of the contaminant in the spiked matrix sample analyzed in the same analytical batch as the sample result being reported and calculated using; % recovery = [(amt. found in Sp—amt. found in sample) / amt. spiked] $\times$ 100.
20. Presence/Absence	*Chemicals:* Presence—a response was produced by the analysis (i.e., greater than or equal to the MDL but less than the minimum reporting level)/Absence—no response was produced by the analysis (i.e., less than the MDL). *Microbiologicals:* Presence—indicates a response was produced by the analysis /Absence—indicates no response was produced by the analysis.

(e) *How must I report this information*? You must report this information in the electronic or other format specified by the primacy agency.

(f) *Can the laboratory to which I send samples report the results for me*? Yes, as long as the laboratory sends you a copy for review and recordkeeping.

3. Section 141.40 is revised to read as follows:

§ 141.40 Monitoring requirements for unregulated contaminants.

(a) *Requirements for owners and operators of public water systems.*—(1) *Do I have to monitor for unregulated contaminants?*—(i) *Transient systems.* If you own or operate a transient non-community water system, you do not have to monitor for unregulated contaminants.

(ii) *Large systems.* If you own or operate a public water system (other than a transient system) that serves more than 10,000 persons and do not purchase your entire water supply from another public water system, you must monitor as follows:

(A) You must monitor for the unregulated contaminants on List 1 of the Unregulated Contaminant Monitoring List.

(B) You must monitor for the unregulated contaminants on List 2 of the Unregulated Contaminant Monitoring List if notified by your State or EPA regional office that you are part of the screening survey.

(C) You must monitor for the unregulated contaminants on List 3 of the Unregulated Contaminant Monitoring List if notified by your State or EPA regional office that you are part of the pre-screen testing.

(iii) *Small systems.* If you own or operate a public water system (other than a transient system) that serves 10,000 persons or fewer and do not purchase your entire water supply from another public water system, you must monitor as follows:

(A) You must monitor for the unregulated contaminants on List 1 of the Unregulated Contaminant Monitoring List if you are notified by your State or EPA regional office that you are part of the State Monitoring Plan for small systems.

(B) You must monitor for the unregulated contaminants on List 2 of the Unregulated Contaminant Monitoring List if you are notified by your State or EPA regional office that you are part of the screening survey.

(C) You must monitor for the unregulated contaminants on List 3 of the Unregulated Contaminant Monitoring List if you are notified by your State or EPA regional office that you are part of the pre-screen testing.

(2) *How would I be selected for the monitoring under the State Monitoring Plan, the screening survey, or the pre-screen testing?*—(i) *State Monitoring Plan.* Only a representative sample of small systems must monitor for unregulated contaminants. EPA will select a national representative sample of small public water systems in each state through the use of a random number generator. Selection will be weighted by population served within each system water source type (surface or ground water) and system size category (systems serving persons numbering 25–500, 501–3,300, and 3,301–10,000). EPA will also select a small group of systems to be ''index sites.'' Systems selected as index sites provide information about their site and operation that will serve to allow extrapolation of their results to other systems of similar size, rather than collecting detailed information at every small system. Each State will have the opportunity to make some modifications to this selection. You will be notified by EPA or the State that your system is part of the final State Monitoring Plan.

(ii) *Screening Survey.* The purpose of the screening survey is to determine the occurrence of contaminants in drinking water or sources of drinking water for which analytical methods have recently been developed for unregulated contaminant monitoring. EPA will select up to 300 systems to participate in this survey by using a random number generator. You will be notified by EPA or the State that your system has been selected for monitoring under the screening survey.

(iii) *Pre-screen testing.* The purpose of pre-screen testing is to determine the occurrence of contaminants for which EPA needs to determine that new analytical methods can measure their existence in locations most likely to be found. EPA will select up to 200 systems to participate in this testing considering the characteristics of the contaminants, precipitation, system operation, and environmental conditions. You will be notified by EPA or the State that your system has been selected for monitoring under the pre-screen testing program.

(3) *For which contaminants must I monitor?* Lists 1, 2 and 3 of unregulated contaminants are as follows:

TABLE 1.—UNREGULATED CONTAMINANT MONITORING LIST

1—Contaminant	2—CAS Identification No.	3—Analytical methods	4—Minimum reporting level	5—Sampling location	6—Date monitoring to begin
List 1—Assessment Monitoring Organic Chemical Contaminants					
2,4-dinitrotoluene	121–14–2	EPA 525.2[a]	2.4 ug/L[e]	EPTDS[f]	2001–2003
2,6-dinitrotoluene	606–20–2	EPA 525.2[a]	2.0 ug/L[e]	EPTDS[f]	2001–2003
DCPA mono acid degradate	887–54–7	EPA 515.1[a] EPA 515.2[a] D5317–93[b] AOAC 992.32[c]	1.0 ug/L[e]	EPTDS[f]	2001–2003
DCPA di acid degradate	2136–79–0	EPA 515.1[a] EPA 515.2[a] D5317–93[b] AOAC 992.32[c]	1.0 ug/L[e]	EPTDS[f]	2001–2003
4,4′-DDE	72–55–9	EPA 508[a] EPA 508.1[a] EPA 525.2[a] D5812–96[b] AOAC 990.06[c]	0.75 ug/L[e]	EPTDS[f]	2001–2003
EPTC	759–94–4	EPA 507[a] EPA 525.2[a] D5475–93[b] AOAC 991.07[c]	1.2 ug/L[e]	EPTDS[f]	2001–2003
Molinate	2212–67–1	EPA 507[a] EPA 525.2[a] D5475–93[b] AOAC 991.07[c]	0.87 ug/L[e]	EPTDS[f]	2001–2003
MTBE	1634–04–4	EPA 524.2[a] D5790–95[b] SM6210D[d]	5.0 ug/L[g]	EPTDS[f]	2001–2003
Nitrobenzene	98–95–3	EPA 524.2[a] D5790–95[b] SM6210D[d]	12 ug/L[g]	EPTDS[f]	2001–2003
Terbacil	5902–51–2	EPA 507[a] EPA 525.2[a] D5475–93[b] AOAC 991.07[c]	23 ug/L[e]	EPTDS[f]	2001–2003
List 1—Assessment Monitoring Microbiological Contaminants					
Aeromonas Hydrophila	Reserved	Membrane filter, in review.	1 colony forming unit.	(1) Near end of distribution line with longest residence time; (2) at a representative site in the distribution system.	2001–2003

Chemical Contaminant	CAS identification No.	Anticipated analytical methods	Minimum reporting level[e]	Sampling location	Date monitoring to begin
List 2.—Screening Survey: Organic Chemical Contaminants To Be Sampled After Notice of Analytical Methods Availability					
1,2-diphenylhydrazine	122–66–7	EPA 525.2[i]	Reserved[h]	EPTDS[f]	Reserved.[h]
2-methyl-phenol	95–48–7	SPE/GC/MS[l]	Reserved	EPTDS[f]	Reserved.[h]
2,4-dichlorophenol	120–83–2	SPE/GC/MS[l]	Reserved[h]	EPTDS[f]	Reserved.[h]
2,4-dinitrophenol	51–28–5	SPE/GC/MS[l]	Reserved.[h]	EPTDS[f]	Reserved.[h]
2,4,6 trichlorophenol	88–06–2	SPE/GC/MS[l]	Reserved[h]	EPTDS[f]	Reserved.[h]
Acetochlor	34256–82–1	EPA 525.2[i]	Reserved[h]	EPTDS[f]	Reserved.[h]
Alachlor ESA		TBD[h]	Reserved[h]	EPTDS[f]	Reserved.[h]
Diazinon	333–41–5	EPA 525.2[k]	Reserved[h]	EPTDS[f]	Reserved.[h]
Disulfoton	298–04–4	EPA 525.2[k]	Reserved[h]	EPTDS[f]	Reserved.[h]
Diuron	330–54–1	SPE/HPLC/U V[j]	Reserved[h]	EPTDS[f]	Reserved.[h]
Fonofos	944–22–9	EPA 525.2[i]	Reserved[h]	EPTDS[f]	Reserved.[h]
Linuron	330–55–2	SPE/HPLC/U V[j]	Reserved[h]	EPTDS[f]	Reserved.[h]
Prometon	1610–18–0	EPA 525.2[k]	Reserved[h]	EPTDS[f]	Reserved.[h]
Terbufos	13071–79–9	EPA 525.2[k]	Reserved[h]	EPTDS[f]	Reserved.[h]

References:

[a] The version of the EPA methods being approved will be dependant upon the status of the approval of new versions for compliance monitoring. If appropriate regulations approving new versions of EPA compliance monitoring methods are completed prior to the promulgation of this regulation, the following versions of the above methods will be approved. *Methods for the Determination of Organic Compounds in Drinking Water—Supplement III*, EPA–600/R–95–131, August 1995. NTIS PB95–261616. Copies are also available from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161. The toll-free number is 800–553–6847. If new regulations changing the versions of methods being approved for compliance monitoring are not completed prior to the promulgation of this regulation, then the following versions of the EPA methods are being approved for monitoring under the Unregulated Contaminant Monitoring Rule. Methods 507, 508, and 515.1 are in *Methods for the Determination of Organic Compounds in Drinking Water*, EPA–600/4–88–039, December 1988, Revised, July 1991. Methods 515.2 and 524.2 are in *Methods for the Determination of Organic Compounds in Drinking Water—Supplement II*, EPA/600/R–92/129, August 1992. These documents are available from the National Technical Information Service, (NTIS) U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161 (800) 553–6847. Methods 508.1 and 525.2 are available from US EPA NERL-Cincinnati, Cincinnati, Ohio 45268, (513) 569–7586.

[b] *Annual Book of ASTM Standards*, 1996 and 1998, Vol. 11.02, American Society for Testing and Materials. Method D5812–96 is located in the *Annual Book of ASTM Standards*, 1998, Vol. 11.02. Methods D5790–95, D5475–93, and D5317–93 are located in the *Annual Book of ASTM Standards*, 1996 and 1998, Vol 11.02. Copies may be obtained from the American Society for Testing and Materials, 101 Barr Harbor Drive, West Conshohocken, PA 19428.

[c] Official Methods of Analysis of AOAC (Association of Official Analytical Chemist) International, Sixteenth Edition, 4th Revision, 1998, Volume I, AOAC International, First Union National Bank Lockbox, PO Box 75198, Baltimore, MD 21275–5198. 1–800–379–2622.

[d] 18th and 19th editions of *Standard Methods for the Examination of Water and Wastewater*, 1992 and 1995, American Public Health Association; either edition may be used. Copies may be obtained from the American Public Health Association, 1015 Fifteenth Street NW, Washington, DC 20005.

[e] Minimum Reporting Level determined by multiplying by 10 the least sensitive method's minimum detection limit (MDL=standard deviation times the Student's T value for 99% confidence level with n-1 degrees of freedom), or when available, multiplying by 5 the least sensitive method's estimated detection limit (where the EDL equals the concentration of compound yielding approximately a 5 to 1 signal to noise ratio or the calculated MDL, whichever is greater).

[f] Entry Points to the Distribution System, After Treatment, representing each water source in use over the twelve-month period of monitoring.

[g] Minimum Reporting Levels (MRL) for Volatile Organic Compounds (VOC) determined by multiplying either the published Method Detection Limit (MDL) or 0.5 ug/L times 10, whichever is greater. The MDL of 0.5 ug/L (0.0005 mg/L) was selected to conform to VOC MDL requirements of 40 CFR 141.24(f)(17(E).

[h] To be Determined at a later time.

[i] Compound currently not listed as an contaminant in this method. Methods development currently being conducted in an attempt to add it to the scope of this method.

[j] Methods development currently in progress to develop a solid phase extraction/high performance liquid chromatography/ultraviolet method for the determination of this compound.

[k] Compound listed as being an contaminant using EPA Method 525.2; however, adequate sample preservation is not available. Preservation studies currently being conducted to develop adequate sample preservation.

[l] Methods development currently in progress to develop a solid phase extraction/gas chromatography/mass spectrometery method for the determination of this compound.

Microorganism	Identification No.	Sampling location	Date monitoring to begin
List 3.—Pre-Screen Testing: Contaminants with Analytical Methods Not Anticipated To Be Available by Regulation Implementation			
Cyanobacteria (blue-green algae, other freshwater algae and their toxins)	Reserved [a]	Reserved [a]	Reserved.[a]
Echoviruses	Reserved [a]	Reserved [a]	Reserved.[a]
Coxsackieviruses	Reserved [a]	Reserved [a]	Reserved.[a]
Helicobacter pylori	Reserved [a]	Reserved [a]	Reserved.[a]
Microsporidia	Reserved [a]	Reserved [a]	Reserved.[a]
Caliciviruses	Reserved [a]	Reserved [a]	Reserved.[a]
Adenoviruses	Reserved [a]	Reserved [a]	Reserved.[a]

[a] To be Determined at a later time

(4) *What general monitoring requirements must I follow for List 1 monitoring?*—(i) *All systems.* You must:

(A) Collect samples of the listed contaminants in accordance with paragraph (e) of this section and any other specific instructions provided to you by EPA or the State;

(B) Review the laboratory testing results to ensure reliability; and

(C) Report the results as specified in § 141.35.

(ii) *Large systems.* In addition to paragraph (d)(1) of this section, you must arrange for testing of the samples according to the methods specified for each contaminant in the Unregulated Contaminant Monitoring List and in Appendix A to this section.

(iii) *Small systems.* In addition to paragraph (d)(1) of this section, you must:

(A) Properly receive, store and use the sampling equipment sent to you from the laboratory;

(B) Sample at the times specified by the State or the EPA Regional office;

(C) Collect and pack samples in accordance with the instructions sent to you by the laboratory; and

(D) Send the samples to the laboratory designated by EPA.

(5) *What specific sampling and quality control requirements must I follow for monitoring of List 1 contaminants? (i) All systems.* You must comply with the following requirements:

(A) *Sample collection and shipping time.* If you must ship the samples for testing, you must collect the samples early enough in the day to allow adequate time to send the samples for overnight delivery to the laboratory since some samples must be processed at the laboratory within 30 hours of collection. You must not collect samples on Friday, Saturday or Sunday because sampling on these days would not allow samples to be shipped and received at the laboratory within 30 hours.

(B) *No compositing of samples.* You must not composite (that is, combine, mix or blend) the samples. You must collect, preserve and test each sample separately.

(C) *Review and reporting of results.* After you have received the laboratory results, you must review and confirm the system information and data regarding sample collection and test results. You must report the results as provided in § 141.35.

(ii) *Large systems.* In addition to paragraph (e)(1) of this section, you must comply with the following:

(A) *Timeframe.* You must collect the samples in one twelve-month period during the years indicated in column 6 of the Unregulated Contaminant Monitoring List.

(B) *Frequency.* You must collect the samples according to the following frequency specified by contaminant type and water source type:

Contaminant type	Water source type	Timeframe	Frequency
Chemical	Surface water	12 months	Every three months with one sampling event during the vulnerable time [a].
	Ground water	12 months	Vulnerable time [a] and six (6) months later.
Microbiological	Surface and ground water.	12 months	Vulnerable time [a] and six (6) months later.

[a] Vulnerable time means May 1 through July 31, unless the State or EPA Regional Office informs you that it has selected a different time period as your system's vulnerable time.

(C) *Location.* You must collect samples at the location specified for each listed contaminant in column 5 of the Unregulated Contaminant Monitoring List.

(D) *Sampling instructions.* You must follow the sampling procedure for the method specified in column 3 of the Unregulated Contaminant Monitoring List for each contaminant.

(E) *Testing and analytical methods.* You must use the analytical method specified for each listed contaminant in column 3 of the Unregulated Contaminant Monitoring List, the minimum reporting levels in column 4 of the Unregulated Contaminant Monitoring List, and the quality control procedures specified in appendix A to this section.

(F) *Sampling deviations.* If you do not sample according to the procedures specified for a listed contaminant, you must resample following the procedures specified for the method.

(G) *Testing.* You must arrange for the testing of the contaminants by a laboratory certified under § 141.28.

(iii) *Small systems that are part of the State Monitoring Plan.* In addition to paragraph (a)(5)(i) of this section, you must comply with the following:

(A) *Frequency.* You must collect samples at the times specified for you by the State or EPA regional office, following the frequency specified in paragraph (a)(5)(ii)(B) of this section for the contaminant type and water source type.

(B) *Location.* You must sample at the locations specified for you by the State or EPA regional office.

(C) *Sampling deviations.* If you do not collect a sample according to the instructions provided to you, then you must report the deviation on the sample reporting form that you send to the laboratory with the samples.

(D) *Sample kits.* You must store and maintain the sample collection kits sent to you by the laboratory in a secure place until used for sampling. If indicated in the kit's instructions, you must freeze the cold packs. The sample kit will include all necessary containers, packing materials and cold packs, instructions for collecting the sample and sample treatment (such as dechlorination or preservation), report forms for each sample, contact name and telephone number for the laboratory, and a prepaid return shipping docket and return address label. If any of the materials listed in the kit's instructions are not included or arrive damaged, you must notify the laboratory which sent you the sample collection kits.

(E) *Sampling instructions.* You must comply with the instructions sent to you by the State or EPA Regional office concerning use of containers, collection (how to fill the sample bottle), dechlorination and/or preservation, and sealing and preparing the sample and shipping containers for shipment. You must also comply with the instructions sent to you by the laboratory concerning the handling of sample containers for specific contaminants.

(F) *Duplicate samples.* EPA will select systems in the State Monitoring Plan that must collect duplicate samples for quality control. If your system is selected, you will receive two sample kits that you must use. You must use the same sampling protocols for both sets of samples, following the instructions in the duplicate sample kit.

(G) *Sampling forms.* You must completely fill out the sampling forms sent to you by the laboratory, including the data elements 1 through 9 listed in § 141.35 for each sample. You must sign and date the sampling forms.

(H) *Sample submission.* Once you have collected the samples and completely filled in the sampling forms, you must send the samples and the sampling forms to the laboratory designated in your instructions.

(6) *What additional requirements must I follow if my system is selected as an Index site?* If your system is selected as an index site in the State Monitoring Plan, you must assist EPA or the State in identifying appropriate sampling locations and provide information on which wells and intakes are in use at the time of sampling, well casing and screen depths (if known) for those wells, and the pumping rate of each well or intake at the time of sampling.

(7) *What must I do if my system is selected for the screening survey or pre-screen testing?*—(i) *Large systems.* If your system serves over 10,000 persons, you must collect and arrange for testing of the contaminants in List 2 and List 3 of the unregulated contaminant monitoring list in accordance with the requirements set out in paragraph (a)(4) and (5) of this section. You must send the samples to one of the laboratories designated by EPA in your notification. You must report the test results to the State.

(ii) *Small systems.* If your system serves 10,000 persons or fewer, you must collect samples in accordance with the instructions sent to you by the State or EPA, or, if informed by the State or EPA that the State or EPA will collect the sample, you must assist the State or EPA in identifying the appropriate sampling locations and in taking the samples. EPA will report the test results to you and the State.

(b) *Requirements for State and Tribal Participation*—(1) *How can I as the director of a State or Tribal drinking water program participate in the State Monitoring Plan and Screening Survey for small systems?* You may participate in the selection of systems for the State Monitoring Plan and the timing of monitoring as follows:

(i) *Initial plan.* EPA will first specify the number of systems serving 10,000 or fewer persons by water source and size in an initial plan for each State using a random number generator. EPA will also generate a replacement list of systems for systems that may not have been correctly specified on the initial plan. This initial plan will also indicate the week, month, and year that each system must monitor for the contaminants in List 1 of the

Unregulated Contaminant Monitoring List. EPA will provide you with the initial plan for your State or Tribe, including systems to be index sites and those small systems to be part of the screening survey.

(ii) *State acceptance or modification of the list of systems.* Within 60 days of receiving the initial plan, you may notify EPA that you either accept it as your State Monitoring Plan or request to modify the initial plan by removing systems closed, merged or purchasing water from another system. In place of any such systems, you must use systems from the replacement list in the order listed. Your request must include the modified plan and the reason for replacement of systems. You may also specify an alternative week, month and year in which the monitoring is to occur for each system in the State Plan as long as approximately one-third of the systems in the State Plan must monitor in each year specified in Table 1, column 6. This monitoring may be coordinated with regulated contaminant compliance monitoring at your discretion.

(iii) *State modification of the timing of monitoring.* Within 60 days of receiving the initial plan, you may also modify the plan by selecting an alternative week, month and year for monitoring for each system in the State Monitoring Plan as long as approximately one-third of the systems in the Plan monitor in each year specified in column 6 of the Unregulated Contaminant Monitoring List. This monitoring may be coordinated with regulated contaminant compliance monitoring at your discretion. You must send the modified plan to EPA.

(iv) *Determination of alternate vulnerable time.* Within 60 days of receiving the initial plan, you may also determine that the most vulnerable time of the year for any or all of the systems is different than the May 1 through July 31. If you make this determination, you must modify the State Monitoring Plan to indicate the alternate vulnerable time and to which systems the alternate vulnerable time applies. You must also notify the system(s) of the most vulnerable time of the year that you have specified for them to sample for one of their sampling events. You must notify them at least 90 days before their first unregulated contaminant sampling is to occur.

(v) *Notification of systems.* If you decide to accept or modify the initial plan, you must provide to EPA your plan for notifying each public water system of its selection for the plan and instructions for monitoring. You must provide notification to systems at least 90 days before sampling must occur.

(vi) *No modification.* If you do not accept the initial plan or submit a request to EPA to modify the initial plan within 60 days, the initial plan will become the State Monitoring Plan for your State or Tribe. In that case, you may still notify each public water system of its selection for the plan and instructions for monitoring as long as you notify EPA that you will be undertaking this responsibility.

(2) *What instructions do I provide to systems that are part of the State Monitoring Plan?* If you choose to notify systems that they are part of the State Monitoring Plan, you must send a monitoring schedule to each system listed in the State Monitoring Plan and instructions on location, frequency, timing of sampling, use of sampling equipment, and handling and shipment of samples based on these regulations. EPA will provide you with guidance for these instructions.

(3) *Can I also change the vulnerable time for monitoring of large systems?* Yes. If you desire to change the vulnerable time for monitoring at large systems, then not later than 120 days prior that monitoring, you must send written notification to the EPA Regional Office indicating your State is modifying the most vulnerable time of the year for any or all of the large systems to be different than the period of May 1 through July 31 and specify the vulnerable time for each system to which any modification applies. You must also notify the system(s) of the most vulnerable time of the year that you have specified for them to sample for one of their sampling events. You must notify them at least 90 days before their first unregulated contaminant sampling is to occur.

(4) *How can I participate in monitoring for the Screening Survey for large systems?* Within 120 days prior to sampling, EPA will notify you which systems have been selected to participate in the screening survey, the sampling dates, the designated laboratory for testing, and instructions for sampling. You may choose to notify the selected systems in your State of these screening survey requirements. If you choose to do so, you must notify EPA within 30 days of EPA's notification to you. You must provide the necessary screening survey information to the selected systems at least 90 days prior to the sampling date.

(5) *How can I participate in monitoring for Pre-Screen Testing?* You can participate in pre-screen testing in two ways.

(i) First, within 60 days of EPA's letter to you concerning initiation of Pre-screen testing for specific contaminants, you can identify from 5 up to 25 systems in your State that you determine to be representative of the most vulnerable systems to these contaminants, modify your State Monitoring Plan to include these most vulnerable systems, and notify the EPA Regional Office of the addition of these systems to the State Plan. These systems must be selected from all community and non-transient noncommunity water systems. EPA will use the State-identified vulnerable systems to select up to 200 systems nationally to be monitored considering the characteristics of the contaminants, precipitation, system operation, and environmental conditions.

(ii) Second, within 120 days prior to sampling, EPA will notify you which systems have been selected, sampling dates, the designated laboratory for testing of samples for systems serving 10,000 or fewer persons and approved laboratories for systems serving more than 10,000 persons, and instructions for sampling. You may choose to notify the owner or operator of the selected systems in your State of these pre-screen testing requirements. If you choose to do so, you must notify EPA within 30 days of EPA's notification to you. You must provide the necessary pre-screen testing information to the owner or operator at least 90 days prior to the sampling date.

(6) *Can I add contaminants to the Unregulated Contaminant Monitoring List?* Yes, the SDWA allows Governors of seven or more States to petition the EPA Administrator to add one or more contaminants to the Unregulated Contaminant Monitoring List. The petition must clearly identify the reason for adding the contaminant(s) to the monitoring list, including the potential risk to public health, particularly any information that might be available regarding disproportional risks to the health and safety of children, the expected occurrence documented by any available data, any analytical methods known or proposed to be used to test for the contaminant(s), and any other information that could assist the Administrator in determining which contaminants present the greatest public health concern and should, therefore, be included on the Unregulated Contaminant Monitoring List.

(7) *Can I waive monitoring requirements?* Only with EPA approval and under very limited conditions. Following are the procedures for requesting the only type of waiver available under these regulations.

(i) You may apply to EPA for a state-wide waiver from the monitoring requirements for public water systems serving more than 10,000 persons. To apply for such a waiver, you must submit an application to EPA that includes the following information:

(A) The list of contaminants on the Unregulated Contaminant List for which you request a waiver, and

(B) Documentation demonstrating, for each contaminant in your request, that during the past 15 years it has not been used, stored, disposed of, released, naturally present or detected in the source waters or distribution systems in the State.

(ii) EPA will notify you if EPA determines that you may waive monitoring requirements.

Appendix A to § 141.40—Quality Control Requirements for Testing All Samples Collected

Your system must ensure that the quality control requirements listed below for testing of samples collected and submitted under § 141.40 are followed:

(1) *Sample Collection/Preservation*. Follow the sample collection and preservation requirements for the specified method for each of the contaminants in Table 1. These requirements specify sample containers, collection, dechlorination, preservation, storage, sample holding time, and extract storage and/or holding time that the laboratory must follow. Samples with methods that specify storage at 4°C must be shipped in ice or frozen gel packs.

(2) *Method Detection Limit*. Calculate the laboratory method detection limit (MDLs) for each contaminant in Table 1, List 1, using the appropriate specified method according to procedures in 40 CFR part 136, appendix B with the exception that the contaminant concentration used to fortify reagent water must be less than or equal to the minimum reporting level (MRL) for the contaminants as specified in Table 1 of § 141.40(a)(3). The calculated MDL is equal to the standard deviation times the Student's T value for 99% confidence level with n-1 degrees of freedom. (The MDL must be less than or equal to one-half of the MRL.)

(3) *Calibration*. Perform a three to six point initial calibration depending on the method utilized. Calibration must be verified initially with a low-level standard at a concentration within ±10% of the MRL for each contaminant. Perform a continuing calibration verification following every 10th sample. The calibration verification must be performed by alternating low-level and mid-level calibration standards. The low-level standard is defined as a concentration within ±10% of the MRL with an acceptance range of ±40%. The mid-level standard is in the middle of the calibration range with an acceptance range of ±20%.

(4) *Reagent Blank Analysis*. Analyze one laboratory reagent (method) blank per sample set/batch that is treated exactly as a sample. The maximum allowable background concentration is one-half of the MRL for all contaminants. A field reagent blank is required only for EPA Method 524.2 (or equivalent listed methods, D5790.95 and SM6210D).

(5) *Quality Control Sample*. Obtain a quality control sample from an external source to check laboratory performance at least once each quarter.

(6) *Matrix Spike and Duplicate*. Prepare and analyze matrix spike (MS) for accuracy and matrix spike duplicate (MSD) samples for precision to determine method accuracy and precision for all contaminants in Table 1, List 1. MS/MSD samples must be prepared and analyzed at a frequency of 5% (or one MS/MSD set per every 20 samples) or with each sample batch whichever is more frequent. In addition, the MS/MSD spike concentrations must be alternated between a low-level spike and mid-level spike approximately 50% of the time. (For example: a set of 40 samples will require preparation and analysis of two MS/MSD sets. The first set must be spiked at either the low-level or mid level, and the second set must be spiked with the other standard, either the low-level or mid-level whichever was not used for the initial MS/MSD set). The low-level MS/MSD spike concentration must be within ±10% of the MRL for each contaminant. The mid-level MS/MSD spike concentration must be within ±10% of the mid level calibration standard for each contaminant. There are no acceptance criteria specified for MS/MSD recoveries.

(7) *Internal Standard Calibration*. As appropriate to a method's requirements to be used, test and obtain an internal standard for the methods for each chemical contaminant in Table 1, List 1, a pure contaminant of known concentration, for calibration and quantitation purposes. The methods specify the percent recovery or response that you must obtain for acceptance.

(8) *Method Performance Test*. As appropriate to a method's requirements to be used, test for surrogate compounds, a pure contaminant unlikely to be found in any sample, to monitor method performance. The methods specify the percent recovery that you must obtain for acceptance.

(9) *Detection Confirmation*. Confirm any chemical contaminant detected above the MRL by gas chromatographic/mass spectrometric (GC/MS) methods. If testing resulted in first analyzing the sample extracts via specified gas chromatographic methods, an initial confirmation by a second column dissimilar to the primary column may be performed. If the contaminant detection is confirmed by the secondary column, then the contaminant must be reconfirmed by GC/MS using 3 specified ion peaks for contaminant identification. Use one of the following confirming techniques: (i) perform single point calibration of the GC/MS system for confirmation purposes only as long as the calibration standard is at a concentration within ± 50% of the concentration determined by the initial analysis; or (ii) perform a three point calibration with single point daily calibration verification of the GC/MS system regardless of whether that verification standard concentration is within ± 50% of sample response. If GC/MS analysis confirms the initial contaminant detection, report results determined from the initial analysis.

(10) *Reporting*. Report the analytical results and other data, with the required data listed in § 141.35, Table 1. Report this data electronically to the State or EPA Regional Office, unless the State or EPA Regional Office specifies otherwise. Systems must coordinate with their laboratories for electronic reporting to the State or EPA Regional Office to ensure proper formatting and timely data submission.

PART 142—NATIONAL PRIMARY DRINKING WATER REGULATIONS IMPLEMENTATION

1. The authority citation for part 142 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9, and 300j–11.

2. Section 142.15 is amended by revising paragraph (c)(3) to read as follows:

§ 142.15 Reports by States.

* * * * *

(c) * * *

(3) *Unregulated contaminant monitoring.* The State must report the results from the unregulated contaminant monitoring required under 40 CFR 141.40, including the information identified in 40 CFR 141.35(b) to the National Drinking Water Contaminant Occurrence Data Base. This report must be in an electronic format and sent to EPA through the Safe Drinking Water Information System or other information system specified by the Agency not later than the quarter following receipt of the unregulated contaminant monitoring results from the public water system or its laboratory.

* * * * *

3. Section 142.16 is amended by revising paragraphs (e) introductory text, (e)(1) introductory text, and (e)(1)(i)(C) to read as follows:

§ 142.16 Special primacy requirements.

* * * * *

(e) An application for approval of a State program revision which adopts the requirements specified in 40 CFR 141.11, 141.23, 141.32, 141.61 and 141.62 must contain the following (in addition to the general primacy requirements enumerated elsewhere in this part, including the requirement that State regulations be at least as stringent as the federal requirements):

(1) If a State chooses to issue waivers from the monitoring requirements in 40 CFR 141.23 and 141.24, the State shall describe the procedures and criteria which it will use to review waiver applications and issue waiver determinations.

(i) * * *

(C) The State decision criteria, including the factors that will be considered in deciding to grant or deny waivers. The decision criteria must include the factors specified in 40 CFR 141.24(f)(8) and 141.24(h)(6).

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Friday
April 30, 1999

Part III

Department of Housing and Urban Development

24 CFR Parts 5, 960, 966, and 984
Changes to Admission and Occupancy Requirements in the Public Housing and Section 8 Housing Assistance Programs; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5, 960, 966, and 984

[Docket No. FR–4485–P–01]

RIN 2501–AC59

Changes to Admission and Occupancy Requirements in the Public Housing and Section 8 Housing Assistance Programs

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule addresses several changes related to admission and occupancy requirements of public housing and section 8 assisted housing that were made by the Quality Housing and Work Responsibility Act of 1998 (referred to as the ''1998 Act''). With respect to admission and occupancy, this rule includes important changes concerning choice of rent, community service and self-sufficiency in public housing. This rule also includes important changes concerning admission preferences and determination of income and rent in public housing and Section 8 housing assistance programs. Some of the provisions included in this rule are already in effect, as more fully discussed in HUD's Notice of Initial Guidance on the 1998 Act, published on February 18, 1999 (''Initial Guidance Notice''), and HUD's interim rule on the PHA Plan, also published on February 18, 1999 (PHA Plan interim rule). The provisions that are already in effect are identified in this rulemaking.

DATES: Comment due date: June 29, 1999.

ADDRESSES: Submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Please refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: For the public housing and tenant-based Section 8 housing assistance programs—Patricia Arnaudo, Senior Program Manager, Office of Public and Assisted Housing Delivery, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4112, Washington, DC 20410; telephone (202) 708–0744, or the Public and Indian Housing Resource Center at 1–800–955–2232.

For the Section 8 project-based programs—Willie Spearmon, Director, Office of Multifamily Business Products, Office of Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 6138, Washington, DC 20410; telephone (202) 708–3000.

(With the exception of the telephone number for the PIH Resource Center, these are not toll-free telephone numbers.) Persons with hearing or speech impairments may access these numbers via TTY by calling the Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Background—the 1998 Act

Comprehensive Reforms to Public Housing and Section 8 Programs

The Quality Housing and Work Responsibility Act of 1998 (title V of the FY 1999 HUD appropriations Act, Pub.L. 105–276, 112 Stat. 2518, approved October 21, 1998) (referred to in this rule as ''the 1998 Act'' or ''the Act'') amended the United States Housing Act of 1937 (42 U.S.C. 1437, *et seq.*, ''the 1937 Act'') to make comprehensive changes to HUD's public housing, tenant-based assistance, and Section 8 project-based programs. Some of the reforms made by the 1998 Act affect public housing only, and some of the reforms affect Section 8 tenant-based and project-based programs as well. Throughout this preamble and in the provisions of 24 CFR part 5 addressed in this rule, HUD indicates where the matter under discussion applies only to one program or to more than one program.

This Proposed Rule

What This Rule Addresses

This rule addresses both provisions of the 1998 Act that are already in effect, and provisions that are being implemented by this rule. The chart provided in this preamble shows:

(1) Which sections of the 1998 Act are being addressed by this rule,

(2) Which of the 1998 Act changes being implemented in this rule apply to which HUD programs, and

(3) Which sections of the 1998 Act are effective now.

Several Conforming Amendments Included in This Rule

HUD will accept comments on any of the regulatory changes included in this rule. The provisions of the 1998 Act that are already in effect have been implemented directly from the statute, without exercise of discretion by HUD. In order to bring HUD's regulations up to date with the changes made by the 1998 Act, the final rule published after consideration of comments on this proposed rule will need to incorporate these changes. Therefore, the conforming regulatory changes that need to be made to the regulations in 24 CFR parts 5 and 960 have been included in this rule, so the reader can review the regulations in their amended and updated form. Since these changes do not reflect exercise of discretion, however, HUD is not likely to change these provisions in response to public comment.

Regulatory Location of Statutory Provisions

In some cases, a statutory provision being implemented could be placed either in specific program regulations, such as part 982 covering Section 8 tenant-based assistance, or in the regulations governing programs authorized by the 1937 Act, part 5. This proposed rule and other proposed rules being issued at approximately the same time may contain overlapping provisions. When the final rules are issued, we will make the final determination about the appropriate regulatory location of the provisions and place them in the appropriate part.

Program Changes That Require Appropriations Act Approval

Some of the 1998 Act provisions make changes to HUD programs that would take effect only upon approval in appropriations acts. These changes are not included in this rule. If approved in appropriations acts, they will be implemented by notice. Examples of provisions that are dependent upon appropriations act approval are the addition of exclusions from income for medical expenses of nonelderly families and for child and spousal support, and the addition of earned income disallowances in the Section 8 program for earned income.

Previous Proposed Rule on Admission and Occupancy

A proposed rule streamlining the admission and occupancy provisions applicable to public housing and making other changes was published in the **Federal Register** on May 9, 1997 (62 FR 25728). The May 9, 1997 proposed rule is withdrawn. HUD intends to issue a second proposed rule to implement the 1998 Act safety and security provisions for public and assisted housing and expects to make other streamlining changes similar to those

proposed in the May 9, 1997 rule at that time.

Again, the chart that follows presents a summary overview of what this rule addresses. In the chart, the term PBC refers to project-based certificates.

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Statutory Section	Applies to public housing?	Applies to Section 8 certificates & vouchers?	Applies to Section 8 PBC & moderate rehabilitation?	Applies to New Constr, Sub Rehab, & other project-based Sec.8 programs?	Effective Now?
Sec. 506 Definitions	Yes	Yes	Yes	Yes	No (except singles)
Sec. 507 Minimum Rent	Yes	Yes	Yes	Yes	Yes
Sec. 508 Adjusted Income					
a. Mandatory Deductions	Yes	Yes, subject to appropriations	Yes, subject to appropriations	Yes, subject to appropriations	No
b.Permissive .Deductions	Yes	No	No	No	No
Sec. 509 Family Self-Sufficiency Program Amendments	Yes	Yes	No	No	Yes
Sec. 512 Community Service & Self-Sufficiency					
a. 8 hour require.	Yes	No	No	No	No
b. No reduction in rent for reduced welfare income for failure to comply	Yes	Yes	No	No	Yes
Sec. 513 Income Targeting	Yes	Yes	Yes	Yes	Yes
Sec. 514 & 545 Repeal of Federal Preferences	Yes	Yes	Yes	Yes	Yes
Sec. 523 Family Choice of Rental Payment	Yes	No	No	No	No
Sec. 524 & 548 Occupancy by					
a. Police Officers	Yes	Yes	Yes	Yes	Yes
b. Over income families	Yes	No	No	No	Yes

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Organization of Rule

While the rule is published for public comment, HUD may reconsider the organization of this rule, and not only this rule but the existing codified regulations. HUD may determine that the regulations proposed by this rule or proposed to be revised by this rule can be better organized. HUD also may determine that regulatory text can be worded more plainly and clearly, and some regulatory provisions can be consolidated with others, or if they are provisions that are likely to change frequently, these provisions (if not imposing binding requirements) may be better left to non-regulatory sources (such as notices, guidance documents, etc.) Accordingly, HUD may make organizational changes (including streamlining and plain language changes) at the final rule stage. Any comments on the organization of this rule or the existing regulations is welcome.

II. Specific Changes to Admission and Occupancy Requirements

This section of the preamble discusses the changes made to admission and occupancy requirements of the 1937 Act by the 1998 Act and the regulatory changes that will be made as a result of the statutory amendments. Some of these statutory sections were also discussed in the Initial Guidance Notice on the 1998 Act, published in the **Federal Register** on February 18, 1999 (64 FR 8192). For the convenience of any reader who would like a reference to the discussion of a certain section of the new statute provided in the Initial Guidance Notice, this section provides the applicable reference.

Using Computer Matching Results (24 CFR 5.211) (Section 508 of the 1998 Act Amending Section 3 of the 1937 Act)

For some time, HUD has conducted a computer matching initiative to provide one independent source for verifying resident income. HUD can disclose the matched information to the PHAs, in the case of information matched from Social Security records. Since HUD is precluded by law from disclosing Federal tax return data to PHAs, section 508 of the 1998 Act adds a requirement that when HUD notifies an assisted family of information regarding family income, earnings, wages, or unemployment compensation, the family must disclose the information to the public housing agency. This rule adds a new section, 24 CFR 5.211 to implement these provisions.

The rule provides that once the family discloses the information to the PHA, the PHA must review the information for accuracy and take appropriate action. Appropriate action may include review of the information with the tenant and changing the family's rent as needed. If the PHA verifies a case of documented fraud, it should take action to recover excess housing assistance received by the tenant due to unreported income, or evict the tenant or terminate assistance, and take other appropriate administrative or legal action. HUD will be providing additional information on its computer matching initiative.

Section 508 of the Act was discussed in the Initial Guidance Notice at 64 FR 8198, beginning in the middle column.

Change From HA to PHA (§ 5.214)

In the definitions provided in 24 CFR 5.214, HUD removes the definition of ''HA.'' This acronym HA refers to a housing agency, which was the collective term used by HUD to refer to both a public housing agency and an Indian housing authority. The Native American Housing Assistance and Self-Determination Act (NAHASDA) (Pub.L. 104–330, approved October 26, 1996) eliminated several separate programs of Indian housing assistance and replaced them with a single block grant program. NAHASDA also provided that affordable housing assistance be made directly to Federally-recognized tribes, which in turn may designate a housing entity to act on their behalf by becoming the NAHASDA block grant program recipient. The practical consequence is that Indian housing authorities (or ''tribally designated entities'') are now governed by separate regulations, implementing NAHASDA. Therefore, the only remaining category of housing agency recognized under the 1937 Act is a Public Housing Agency or ''PHA.'' HUD's rule amending part 982, published elsewhere in today's **Federal Register**, provides a broader definition for HA. At the final rule stage, the part 5 regulations may incorporate this definition.

Repeal of Preference for Elderly, Disabled, and Displaced Over Other Singles (24 CFR 5.405, 960.407) (Section 506 of the 1998 Act Amending Section 3(b) of the 1937 Act)

This rule removes the current regulatory giving preference to elderly, disabled, or displaced families over other single persons in all 1937 Act programs (§ 5.405(b)), in compliance with section 506 of the Act. In addition, this rule includes a conforming change to remove the outdated public housing provisions (§ 960.407(b), (c), and (d)). A PHA may continue to have this type of preference as part of its local preference policies. If a PHA does not keep as its highest preference a preference for elderly, disabled, or displaced families over other singles as a local preference, the PHA will have to rearrange its current waiting list.

Repeal of Federal Preferences in Admission and Selection for Assistance (24 CFR 5.410–5.430, 960.204, 960.407) (Sections 514 and 545 of the 1998 Act Amending Sections 6 and 8 of the 1937 Act)

The Federal preferences, which have long applied to public housing and Section 8 housing assistance payments programs, are repealed by the 1998 Act. The system of Federal preferences provided that some significant portion of applicants who are involuntarily displaced, living in substandard housing, or paying more than 50 percent of family income for rent, were to be given preference in admission and selection for assistance over other families. Congress had suspended this system of preferences on an annual basis in appropriations acts beginning on January 26, 1996, until this repeal.

Although the 1998 Act eliminates the Federal preferences, the Act continues to allow PHAs to establish their own system for making dwelling units or Section 8 assistance available to families having certain characteristics, now requiring this system of preferences to be linked to their PHA Annual Plan. Each PHA's system of preferences established must be based upon local housing needs and priorities, as determined by the PHA using generally accepted data sources, including waiting list data and any information obtained during public comment on the PHA Annual Plan and under the requirements applicable to the Consolidated Plan (see 24 CFR part 91, subpart B). These requirements are reflected in the PHA Plan interim rule.

The 1998 Act (in section 514) also includes a statement that a PHA should consider preferences for individuals who are victims of domestic violence, consistent with the PHA Annual Plan. Section 514(e) provides:

> It is the sense of the Congress that, each public housing agency involved in the selection of eligible families for assistance under the United States Housing Act of 1937 (including residency in public housing and tenant-based assistance under section 8 of such Act), should, consistent with the public housing agency plan of the agency, consider preferences for individuals who are victims of domestic violence.

Under the rule, PHA policies may provide preferences for veterans, as a needy population.

To implement the elimination of the Federal preferences, this rule removes §§ 5.415, 5.420, 5.425, and 5.430 and revises §§ 960.204 and 960.407 to remove references to the term ''Federal preference.'' This rule also makes several changes to § 5.410:

—It reflects the new link of a PHA's local preferences with the PHA Annual Plan.

—For Section 8 programs other than the Certificate/Voucher, Project-based Certificate, and Moderate Rehabilitation, it gives project owners more flexibility in determining their own tenant selection plan. The rule does the following:

(1) Continues the prohibition on use of residency requirements;

(2) Removes reference to use of the PHA's local preferences (which was located in § 5.410(d)(2)(iii)); and

(3) Specifically authorizes the owner to use a preference for working families, providing it does not give greater weight to an applicant based on the amount of the employment income.

This last provision is included in the revised § 5.410(c)(1), which preserves a responsible entity's authority to adopt a preference for working families (currently found in § 4.415(b)(1)), retaining the reference to anti-skipping protections (currently found in § 5.410(e)(2)) in the revised § 5.410(g). This authority for working family preferences separate from any local preferences adopted by a PHA is derived from section 513(c)(4) of the Act, which describes the income targeting requirements for project-based Section 8 assisted housing.

Sections 514 and 545 were discussed in the Initial Guidance Notice at 64 FR 8200, beginning in the right hand column, and 64 FR 8207, middle column, respectively.

Income Targeting (24 CFR 5.607) (Section 513 of the 1998 Act Amending Section 16 of the 1937 Act)

The 1998 Act (section 513) completely revises the income targeting provisions formerly found in section 16 of the 1937 Act.

For Public Housing

The 1998 Act imposes a general rule that not less than 40 percent of admissions in any fiscal year must be families whose income does not exceed 30 percent of median income for the area—''extremely low-income families.'' The Act, however, allows a PHA to decrease the percentage of extremely low-income families admitted to public housing if the PHA has given new Section 8 tenant-based assistance to more than the required number of extremely low-income families, subject to several restrictions. Even in that event, the PHA cannot reduce the percentage of extremely low-income families in public housing below 30 percent.

For Section 8 Project-Based Assistance

For Section 8 project-based assistance, the percentages of units to which families with incomes higher than 50 percent of median income may be admitted and the anti-skipping restriction remain the same. This rule, however, adds a provision (§ 5.410(c)(1)) permitting owners to adopt a preference for working families, as discussed above. This rule also adds a new requirement for admission of at least 40 percent extremely low-income families to a particular project in a fiscal year. The income targeting requirements do not apply to project-based assistance made available to prevent or ameliorate the effects of displacement.

For Section 8 Tenant-Based Assistance

For Section 8 tenant-based assistance, PHAs must target 75 percent of new admissions to extremely low income families. A PHA may use admission of extremely low-income families in its section 8 tenant-based program that exceed 75 percent of it admissions in a fiscal year (''credit'') to reduce the number of admissions of extremely low income families in its public housing program. This credit, however, must be the lesser of: (1) 10 percent of the families initially given section 8 tenant-based assistance during the year; or (2) the number of families who are not extremely low income and who have been admitted to public housing in projects located in census tracts having a poverty rate of 30 percent or more.

Section 8 tenant-based assistance targeting requirements do not apply to a low-income family that is ''continuously assisted'' under the 1937 Act or to a low-income or moderate income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing.

New Definition Added

Because of the importance of the term ''extremely low-income family,'' this rule adds a definition for this term in § 5.603.

Facilitating Administration of Income Targeting

A PHA can facilitate administration of income targeting if it applies these requirements on the same annual basis as the fiscal year of its public housing or tenant-based program.

Section 513 was discussed in the Initial Guidance Notice at 64 FR 8199, right hand column.

Annual Income, Adjusted Income (24 CFR 5.603, 5.609, 5.611) (Section 508 of the 1998 Act amending Section 3 of the 1937 Act)

Exclusions Versus Deductions

HUD has long made a distinction between exclusions from income used to determine ''annual income'' for eligibility, and deductions for use in determining ''adjusted income,'' and therefore rent. Section 508 of the 1998 Act changed the calculation of adjusted income by adding a number of mandatory deductions to determine adjusted income, which in some cases reflected HUD's exclusions from annual income. For example, HUD's regulations already exclude from ''annual income'' the earned income of minors. The Act adopted a mandatory deduction from income used to calculate ''adjusted income'' for earned income of minors. Given the statutory enactment of this as a deduction, this rule removes the exclusion from annual income and places earned income of minors as a deduction in calculating ''adjusted income,'' to avoid providing a duplicate benefit on the same subject.

The 1998 Act adopted the requirement alaready found in HUD's regulatory definition of ''child care expenses'' (in 24 CFR 5.603) that they must be ''reasonable.'' The Act revised the definition of dependents to include not only full-time students at traditional educational institutions, but also persons pursuing full-time vocational training. HUD's definition of ''full-time student'' (in 24 CFR 5.603) already included vocational training, but only in the context of certificate granting vocational schools. In this rulemaking, HUD revises the definition of ''full-time student'' (in § 5.603) to refer generally to ''vocational training.''

Permissive Deductions—Applicable to Public Housing Only

For public housing, the 1998 Act created deductions for PHAs to use, if they so choose, to promote self-sufficiency and for other purposes. A PHA that decides to provide permissive deductions must describe its deductions in the agency's written policies. HUD cannot assure the provision of additional subsidy to the PHA to cover reduced income resulting from such permissive deductions, however.

The 1998 Act lists a number of examples of permissive deductions: to

the extent these amounts have not already been deducted from annual income or reimbursed to the family from other sources:

(1) Excessive travel expenses, in an amount not to exceed $25 per family per week for travel related to employment, education, or training.

(2) An amount of a family's earned income, based on any of the following:

(i) All the earned income of the family;

(ii) The amount earned by particular members of the family;

(iii) The amount earned by families having certain characteristics; or

(iv) The amount earned by families or members during certain periods or from certain sources.

Other deductions include but are not limited to payroll deductions, such as social security taxes, income taxes and medical insurance premiums. In setting policies on permissive deductions, PHAs are encouraged to coordinate with their local Temporary Assistance for Needy Families (TANF) agencies to assure that assisted housing and TANF support one another. The permissive deductions replace the current optional exclusions from annual income for public housing. (The proposed rule removes the optional exclusions from the definition of annual income, 24 CFR 5.609.)

Section 508 was discussed in the Initial Guidance Notice at 64 FR 8198, middle column.

Minimum Rents (24 CFR 5.616) (Section 507 of the 1998 Act Amending Section 3(a) of the 1937 Act)

Section 507 follows the previous statutory authority of requiring minimum rents of up to $50 for public housing and the Section 8 certificate, voucher, and moderate rehabilitation programs. For section 8 project-based assistance, the minimum rent is $25. In the public housing and the Section 8 programs other than the vouchers, ''minimum rent'' refers to minimum total tenant payment (TTP) and not a minimum tenant rent (TR). As provided in § 5.613, the total tenant payment is the highest of several calculations, one of which is the minimum rent. So, for example, if 30 percent of a family's ''monthly adjusted income'' were $42, and 10 percent of the family's unadjusted ''monthly income'' were $20, and a PHA had set the minimum rent at $50, the amount of the ''total tenant payment'' would be $50. What the family paid (''tenant rent'') might be less or more than that, depending on whether the family pays its own utilities. A family paying its own utilities would be entitled to a utility reimbursement, if the utility allowance were greater than the TTP.

Total Tenant Payment (TTP)

To remove current confusion in the old definition of TTP and clarify that it applies to all programs, this rule changes the current definition to include current statutory definitions and adding a definition of minimum rent.

Section 507 of the Act was discussed in the Initial Guidance Notice at 64 FR 8197, left hand column.

Self-Sufficiency Incentives—Public Housing Only (24 CFR 5.612) (Section 508 of the 1998 Act Amending Section 3 of the 1937 Act)

Disallowance of Earned Income

For public housing only, the 1998 Act exempts earned income for families who start work or self-sufficiency programs. The Act phases in the impact on rent of an increase in earned income of certain families. A PHA cannot increase a public housing family's rent for a period of 12 months if the increase in income results from (1) earnings of a previously unemployed family member; (2) earnings of a family member during participation in a self-sufficiency or job training program; or (3) earnings of a family member that had been receiving welfare in the previous six months. After the 12-month disallowance, a family's rent increase must be phased in. The phased-in rent cannot increase as a result of the earned income by more than 50 percent (50%) for an additional 12 months. HUD is implementing this statutory provision by directing PHAs not to increase the family's annual income, on which the income-based rent is based, to reflect such an increase in income. The actual change in family income will be recorded in the data system, however. (New § 5.612 reflects this change.)

As families move into the work force for the first time, they often experience periods of employment and unemployment. The rule as proposed does not place a limit on the number of times a family or an individual can benefit from the disallowance of earned income; the 1998 Act contains no specific limitations. HUD specifically asks for comments on this subject, including limits on the number of times a family or individual can take advantage of the disallowance.

Previous Earned Income Disregard

The income disregards formerly applicable only to public housing (under 24 CFR 5.609) are being removed. These include PHA optional exclusions from annual income. These exclusions are replaced with similar permissive deductions reflected in the new definition of adjusted income (24 CFR 5.611). Families who have been given optional income exclusions under the old rules must be permitted to retain those exclusions until the family's next annual reexamination.

The new 12-month disallowance (under 24 CFR 5.612) replaces the current 18-month earned income disregard for persons going from training programs to work (under 24 CFR 5.609(c)(13)). Families who currently have an 18-month disregard, or who qualify for such disregard on or before September 30, 1999, can continue that disregard for the 18 months or as long as they would have qualified under the old rule.

Individual Savings Account

Under the 1998 Act, PHAs may establish and maintain individual savings accounts for public housing residents who pay income-based rents. Where the PHA has a policy to offer individual savings accounts, a family may choose an individual savings account instead of being given the 12-month disallowance of earned income and phasing in of a rent increase. Families who choose individual savings accounts would pay the higher rent and the PHA would deposit the increased amount in the savings account. Once established, a family could access the account for purchasing a home, paying education costs, moving out of public housing, or other purposes promoting self-sufficiency. PHAs are not required to provide the savings account option. However, savings accounts are a good way to help families reach self-sufficiency. If a PHA offers savings accounts, the PHA needs to have written policies on management of the accounts. (See 24 CFR 5.612 and 5.614(a)(2).) These policies could be modeled after the Family Self-Sufficiency (FSS) escrow accounts found at 24 CFR part 984 or Turnkey III accounts at 24 CFR part 904. At a minimum, a PHA savings account policy must: (1) provide for payment of interest and annual notification to the resident of account status; and (2) provide that any balance in such an account when the family moves out is the property of the family.

Section 508 was discussed in the Initial Guidance Notice at 64 FR 8198, middle column.

Income Changes Resulting From Welfare Program Requirements (24 CFR 5.618) (Section 512 of the 1998 Act Amending Section 12 of the 1937 Act)

The 1998 Act addresses the interaction of welfare programs and HUD's treatment of income for purposes of determining rent in the public housing and Section 8 tenant-based assistance programs. The Act provides (in section 12(d) of the 1937 Act) that a family's rent must not be decreased as a result of a reduction in welfare benefits based on either (1) fraud by a member of the family; or (2) the family's failure to comply with the welfare program's requirement for work activities or participation in an economic self-sufficiency program. HUD is implementing this statutory provision by directing the responsible entities not to reduce the family's annual income, on which the income-based rent is based, to reflect such a reduction in welfare benefits. The actual change in family income will be recorded in the data system, however.

If a reduction in income results from the expiration of a lifetime limit on benefits or a loss of benefits because of a durational time limit on welfare benefits despite compliance with work requirements, the rule directs the responsible entity to reflect the reduced income in determination of the family's annual income.

In addition, when a family is adversely affected by reductions in welfare benefits as described in this section, the rule requires the responsible entity to notify families that they have the right to a review through a grievance hearing in accordance with § 966.55(e) for public housing, or through the use of an informal hearing under § 982.555(a)(i) for section 8 tenant-based certificate and voucher programs. (See the revision to § 966.55(e) to reflect this for public housing.)

The addition of a new § 5.618, which applies to public housing and Section 8 tenant-based programs, reflects treatment of welfare benefit reductions.

Section 512 was discussed in the Initial Guidance Notice at 64 FR 8199, left hand column.

Rents in Public Housing (24 CFR 5.603, 5.614) (Section 523 of the 1998 Act Amending Section 3(a) of the 1937 Act)

Section 523 of the 1998 Act makes significant changes to the rents charged for public housing units. Legislative history notes that the current rent policies provides disincentives to work and upward mobility. The Act gives PHAs significant flexibility to develop rent policies to encourage self-sufficiency. In addition, public housing residents can choose annually between paying an income-based rent or a flat rent. Rent policies also can be used to help PHAs provide for deconcentration of poverty and income mixing. Both income-based and flat rents must be determined by the PHAs in accordance with their written policies. (Rents are the subject of the new 24 CFR 5.614. In this rule, HUD revises the definition of ''tenant rent'' in § 5.603 to reflect the differences among the programs now that PHAs have flexibility in determining rents in public housing.)

Income-Based Rents

In general, the monthly rental amount, including any applicable utility allowance, calculated under this method must not exceed the highest of the following: 30 percent (30%) of the family's monthly adjusted income; 10 percent (10%) of the family's monthly income; or the welfare rent, if applicable. The monthly rental amount cannot be less than the minimum rent set by the PHA. The 1998 Act permits PHAs to set income-based rents at an amount less than the maximum of 30 percent of monthly adjusted income/10 percent of monthly income/welfare rent. This gives PHAs considerable flexibility in setting income-based rent structures. PHAs could set income-based rents at a fixed percentage below 30 percent, could have a rent schedule which sets the same rent amount for families whose income are within a certain income range, impose ceiling rents, etc. HUD cannot assure PHAs that it can provide additional subsidy to cover any reduced income resulting from such policies. Future operating subsidy distribution is the subject of negotiated rulemaking.

Flat Rents

Flat rents are intended as an incentive for residents to remain in public housing after they have attained a level of self-sufficiency. Working families will provide positive role models for other residents. The Act requires flat rent be set at ''rental value,'' which HUD interprets to be reasonable market value. In establishing reasonable market value, PHAs should review rent of comparable units in the community. A PHA must document its means for establishing the reasonable market value. Methods that a PHA may consider in establishing reasonable market value include using the area's Section 8 rent reasonableness survey for comparable developments. PHAs should review their flat rents as often as necessary to assure they comply with the regulatory requirements, but at least annually. HUD cannot assure PHAs that it can provide additional subsidy to cover any reduced income resulting from such policies. Future operating subsidy distribution is the subject of negotiated rulemaking.

Family Choice

The 1998 Act requires PHAs to give families a choice among options for rents. The options provided must include at least a flat rent and an income-based rent. This choice must be given to each family annually. PHAs must provide residents with enough information to make an informed choice. For example, a PHA could provide the family both the income-based rent and the flat rent for the unit. If the PHA has not completed a current examination of the family's income (because the family has been on flat rent and the PHA's policy is not to conduct annual re-examinations on such families), the PHA should provide a worksheet or other information on how income-based rent is determined so the family could calculate its own income-based rent amount.

Switching Rent Methods to Lower Rent Because of Financial Hardship

The 1998 Act requires a PHA to immediately switch a family from a flat rent to an income-based rent if the PHA determines that the family has a financial hardship circumstance. The PHA must develop written policies stating what the PHA will consider a financial hardship. The PHA's policy must include situations in which the income of the family has decreased because of loss or reduction of employment; death in the family or loss of assistance; or increase in the family's expenses for medical costs, child care, transportation, or education. PHAs can include additional circumstances. Because the 1998 Act requires that PHAs immediately switch rents, a PHA will need to conduct an examination of the family's income in order to switch the rent as quickly as possible, but the rent should be lowered no later than the first of the month following the month the family reported the hardship.

Retaining Ceiling Rents

The 1998 Act permits PHAs that currently have ceiling rents to retain those rents instead of developing flat rents. HUD interprets this to mean that PHAs may retain ceiling rent instead of flat rents for three years, after which time those ceiling rents must be adjusted to the same levels as required for flat rents. Ceiling rents are subject to the limitations that a family cannot be required to pay more than its income-based rent. Therefore, families with ceiling rents must be given a reduced

rent if their income goes down. The PHA must continue to conduct annual reexaminations of income for families who choose ceiling rents, since the three year income review is not applicable to the ceiling rent provision.

Section 523 was discussed in the Initial Guidance Notice at 64 FR 8202, right hand column.

New Community Service and Self-Sufficiency Requirements for Public Housing (24 CFR 960.603–960.611) (Section 512 of the 1998 Act Amending Section 12 of the 1937 Act)

Section 512 of the 1998 Act adds a new requirement for non-exempt residents of public housing. Each non-exempt adult public housing resident must contribute eight (8) hours for each month of community service or participate in a self-sufficiency program for 8 hours in each month. (The exemptions are discussed later in this section.) Community service is service for which the individual volunteers. A new subpart F is added to 24 CFR part 960, establishing the community service and self-sufficiency requirements.

Each PHA Annual Plan must include a description of how the community service and self-sufficiency requirements will be implemented. The new subpart F of 24 CFR part 960 outlines basic parameters for implementing the community service and self-sufficiency requirement, while retaining flexibility for PHAs to develop initiatives responsive to local circumstances. PHAs are encouraged to partner with qualified resident councils or resident management corporations, community and volunteer groups, or other third party contractors to assist PHAs with program administration.

The Relationship of Community Service and Self-Sufficiency

Since community service is considered a tool to assist residents in becoming responsible and self-sufficient, a number of community service activities are considered self-sufficiency activities. A PHA policy may provide for combining or substituting community service hours with approved self-sufficiency hours to reach the 8 hour monthly requirement.

Community Service

Community service offers public housing residents an opportunity to contribute to the communities that support them. In establishing community service policies, PHAs should not limit community service to a single type of activity and/or a single location in which the activity is to be performed. A PHA could include as community service activities improving the physical environment of the resident's development, volunteer work in a local school, hospital or child care center, working with youth organizations, helping neighborhood groups on special projects, or participation in programs that develop and strengthen resident self-responsibility such as drug and alcohol abuse counseling and treatment, household budgeting and credit counseling, and English proficiency. The 1998 Act specifically prohibits political activity as community service.

A PHA can administer its own community service program, form cooperative relationships with other entities in order to make opportunities available for residents or contract the entire community service program to a third party, including qualified resident councils. A PHA may use a combination of these options. A PHA must ensure that its own community service programs as well as programs developed through cooperative relationships or contracts with third parties are accessible for persons with disabilities.

In administering its own program, a PHA or its authorized designee identifies the most appropriate community service opportunities for residents and directly supervises the performance of the community service. This approach might include developing a directory of eligible opportunities from which residents could select.

Instead of managing the entire process, a PHA could link residents with agencies seeking volunteers. Under this approach, the PHA's administrative duties would be limited to monitoring the appropriateness of the service and confirming a resident's participation.

Another alternative is for the PHA to contract with another entity to run the community service program. The contract entity would then perform all necessary administrative functions. The PHA would be responsible to assure contract compliance. PHAs must follow their procurement policies and 24 CFR 85.36 to contract out their community service programs.

When for-profit third party contractors are used, the PHA should ensure that the administrators overseeing the program do not have a financial interest in the entity where community service participants are assigned. The PHA also should ensure that the conditions under which the work is to be performed are not otherwise hazardous, that the work is not labor that would be performed by the PHA's employees responsible for essential maintenance and property services, or that the work is otherwise unacceptable. The Senate Committee Report on this provision noted that community service is not to be perceived as punitive or demeaning activity, but rather community service should be considered as rewarding activity that will assist residents in improving their own and their neighbors' economic and social well-being and give residents a greater stake in their communities. (Senate Report at pg 21).

Self-Sufficiency

Participation in self-sufficiency activities can satisfy part or all of a resident's requirement to perform community service. A non-exempt adult public housing resident may participate in an economic self-sufficiency program for 8 hours in each month. The 1998 Act defines economic self-sufficiency program to include activities that are designed to encourage, assist, train or facilitate economic independence. In setting policies for this requirement, PHAs are encouraged to look at a broad range of self-sufficiency activities. In addition to apprenticeships and job readiness training, such activities as substance abuse and mental health counseling and treatment, English proficiency, and household budgeting and credit counseling may be considered activities which promote economic self-sufficiency. As with community service, a PHA could operate its own economic self-sufficiency program, develop linkages with other agencies (e.g., TANF), or contract for services to be provided to its residents.

Geographic Location

The 1998 Act discusses the geographic location where the resident must perform the community service or participate in the economic self-sufficiency activity. The location includes PHA-owned property and the community at large. The Congressional intent is that residents provide service to their own communities. In rural areas, a resident's community may encompass a large geographic area, while in dense urban settings, the community may be a neighborhood. In its policy, a PHA should make clear the meaning of ''community.''

Exemptions

The 1998 Act provides a list of exemptions to the requirement for community services and economic self-sufficiency. These include adults who are 62 years of age or older, persons with disabilities, persons engaged in work activities (as defined by section

407(d) of the Social Security Act), and persons participating in a welfare to work program, or receiving assistance from and in compliance with a State program funded under part A, title IV of the Social Security Act. (For purposes of the community service requirement, an adult is a person 18 years or older.) PHAs need to develop policies and procedures for determining and documenting residents' exemptions. Generally PHAs should re-verify an adult's exemption status annually. There are, of course, obvious exceptions. For example, an individual exempt by being over 62 years in age would not need re-verification.

PHAs must establish policies that permit residents to change exemption status during the year if their situation changes. Unemployed residents, for example, must be able to request a determination of exemption if they find work or start a training program.

Persons eligible for a disability deduction are not necessarily automatically exempt from the community service, economic self-sufficiency requirement. The 1998 Act defines ''disability'' very narrowly for the purpose of the community service requirement. Further, the Act states that a person is exempt only to the extent the disability makes the person ''unable to comply'' with the community service requirement. The PHA must ensure that the community service and self-sufficiency programs are accessible to persons with disabilities.

The PHA must document all exemptions for the resident's file. Policies must identify what kinds of documentation the PHA will accept. Generally, PHAs should follow the same standards of documentation for exemptions as they do for other verifications.

While the 1998 Act exempts categories of persons based on their characteristics, such as age or employment, the Act does not exempt adult residents of particular developments or kind of units. Therefore, families who pay flat rent, live in public housing units within market rate developments, or families who are over income when they initially occupy a public housing unit are not automatically exempt.

Cooperative Relationships With Welfare Agencies

The 1998 Act calls upon all PHAs to make their best efforts to enter into cooperative relationships with the agencies that provide assistance to their clients. PHAs should seek and advocate for agreements to target assistance to PHA clients. Agreements with such agencies will not only facilitate exchange of information, they will expand the choice of community service and self-sufficiency programs available to PHA clients and facilitate coordination of those services. As noted in the Initial Guidance Notice, the 1998 Act amends the Public Housing Management Assessment Program (PHMAP) (and the successor program—the Public Housing Assessment System (PHAS)) to include the extent of a PHA's coordination, promotion or provision of effective self-sufficiency programs.

Lease Requirements

Under the 1998 Act, public housing leases must have 12 month terms. The lease must be automatically renewable except for noncompliance with the community service requirements. An annual signing process is not necessary. The public housing lease also must provide for termination and eviction for noncompliance with the community service requirements. Any lease changes (including addenda) must be made in accordance with the provisions of 24 CFR 966.3, including notice to tenants and opportunity for comment. The PHA must implement this provision for each family at the family's next regularly scheduled annual reexamination on or after October 1, 1999, and for families admitted after October 1, 1999. The PHA may not renew or extend the lease if a household contains a nonexempt adult who has failed to comply with the community service requirement.

Documentation

Reasonable documentation must be provided to verify the community service requirements. The documentation must be placed in the resident's file at the time of reexamination.

Noncompliance

Each PHA must determine, on an annual basis, if non-exempt residents are in compliance. The PHA must have a policy which permits noncompliant families to cure the noncompliance. Such a policy must require the noncompliant adult and the head of household to sign an agreement to make up the hours needed within the next 12-month period. Continued noncompliance will result in eviction of the entire family, unless the noncompliant family member is no longer a part of the household.

Section 512 was discussed in the Initial Guidance Notice at 64 FR 8199, left hand column.

Occupancy by Police Officers and Over-Income Families (24 CFR Parts 5 and 960) (Sections 524 and 548 of the 1998 Act Amending Sections 3 and 8 of the 1937 Act)

Section 524 of the 1998 Act amends section 3(a) of the 1937 Act to provide that PHAs and owners may allow police officers to reside in public housing or assisted housing under the requirements of the statute. Under this section, small PHAs may also rent units to over-income families on a month-to-month basis, in accordance with statutory requirements, if there are no eligible families applying for assistance for that month, provided that the over-income family agrees to vacate (with at least 30 days notice) when the unit is needed for an income-eligible family. Section 548 of the Act provides for law enforcement and security personnel in project-based section 8 housing assistance to increase security.

Section 524 of the Act was discussed in the Initial Guidance Notice at 64 FR 8202, right-hand column. Section 548 of the Act was discussed in the Initial Guidance Notice at 64 FR 8204, middle column.

Changes to Existing Self-Sufficiency Programs—Public Housing and Section 8 Certificate/Voucher Programs (24 CFR Part 984) (Section 509 of the 1998 Act Amending Section 23 of the 1937 Act)

Section 509 of the 1998 Act amended section 23 of the 1937 Act to make several changes to the Family Self-Sufficiency Program, which were effective on October 21, 1998. Section 509 provides that the mandatory minimum FSS program size will not increase when a PHA receives incremental Section 8 funding or public housing units on or after October 21, 1998. Section 509 also allows PHAs to reduce their mandatory minimum FSS program size obligation as families successfully complete their FSS contracts.

HUD's regulations (24 CFR part 984) are amended to clarify that for public housing, receipt of incremental housing units means reservation of funds to acquire or construct additional public housing units on or after October 21, 1998. Similarly, for Section 8 certificate and voucher funding, receipt of funds means reservation of funds for the Section 8 certificate and voucher programs. An expanded listing of excluded funding categories that did not increase a PHA's mandatory minimum program size is now included in 24 CFR 984.105. The regulations in part 984 are also amended to clarify that PHAs may continue to implement and administer

FSS programs larger than the required levels, and that HUD approval of the PHA's FSS action plan authorizes the PHA to implement a voluntary FSS program.

In addition, § 984.306(b)(1) has been revised so that PHAs can now approve a family's move outside the PHA's jurisdiction during the first 12 months of a family's FSS contract of participation. The regulatory definition of welfare assistance in § 984.103 also has been revised so that it does not disadvantage working families and families with persons with disabilities.

Section 509 was discussed in the Initial Guidance Notice at 64 FR 8198, right hand column.

III. Findings and Certifications

Public Reporting Burden

The information collection requirements contained in §§ 5.410, 5.612, 5.614, 5.616, 960.605, and 984.201 have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

Comments regarding the information collections contained in the rule must be submitted by June 29, 1999. Comments on these information collections should refer to the title of this rule and must be sent to: Reports Liaison Officer, Mildred Hamman, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4238, Washington, DC 20410.

Specifically, comments are solicited from members of the public and affected entities concerning the proposed collection of information to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The burden of the information collections is estimated as follows:

Section of 24 CFR	Number of respondents	Responses per resp.	Total ann. responses	Hours per response	Total ann. hours
5.410 (Resid. Prefs.)	3,400	1	3,400	16	54,400
5.611 New Deductions	3,400	1	3,400	8	27,000
5.612(c) Indiv Sav Accounts	8,000	1	8,000	2	16,000
5.614(c) Written Rent Options	3,400	1	3,400	16	54,400
5.618(b) Welf. Rent Verif.	3,400	1	3,400	3	10,200
5.618(c) Welf. Rent Notice	3,400	1	3,400	1	3,400
960.605(c) Comm Serv	3,400	1	3,400	1	3,400
984.201 FSS Action Plan 2577–0178 exp 7/31/99	.....	.....	.....	.....	.....
960.505 Over Inc Fams in Small PHAs	500	1	500	1	500
Total Burden	.....	.....	.....	.....	169,300

Regulatory Review

The Office of Management and Budget (OMB) reviewed this proposed rule under Executive Order 12866, *Regulatory Planning and Review*. OMB determined that this proposed rule is a ''significant regulatory action,'' as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). Any changes made to the proposed rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW, Washington, DC 20410–0500.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed and approved this proposed rule and in so doing certifies that this rule would not have a significant economic impact on a substantial number of small entities. The proposed rule begins the rulemaking process to implement changes to admission and occupancy requirements in public housing made by the Quality Housing and Work Responsibility Act of 1998. Although HUD has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities, HUD welcomes comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4223). The Finding is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW, Washington, DC 20410.

Federalism Impact

The General Counsel, as the Designated Official for HUD under Section 6(a) of Executive Order 12612, *Federalism*, has determined that this proposed rule would not have federalism implications concerning the division of local, State, and Federal responsibilities, and therefore review under the order is not required. The proposed rule is exclusively concerned with admission and occupancy requirements in public housing. No programmatic or policy changes will result from this rule that would affect the relationship between the Federal government and State and local governments.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This proposed rule does not impose a Federal mandate that will result in the expenditure by State, local, or tribal

governments, in the aggregate, or by the private secto, or $100 million or more in any one year.

Catalog

The Catalog of Federal Domestic Assistance numbers for these programs are 14.850, 14.855, and 14.857.

List of Subjects

24 CFR Part 5

Administrative practice and procedure, Aged, Claims, Drug abuse, Drug traffic control, Grant programs—housing and community development, Grant programs—Indians, Individuals with disabilities, Loan programs—housing and community development, Low and moderate income housing, Mortgage insurance, Pets, Public housing, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 960

Aged, Grant programs—housing and community development, Individuals with disabilities, Public housing.

24 CFR Part 966

Grant programs—housing and community development, Public housing.

24 CFR Part 984

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, HUD proposes to amend parts 5, 960, and 966 of title 24 of the Code of Federal Regulations as follows:

PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS

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

Authority: 42 U.S.C. 3535(d), unless otherwise noted.

Subpart B—Disclosure and Verification of Social Security Numbers and Employer Identification Numbers; Procedures for Obtaining Income Information

2. Add a new § 5.211, to read as follows:

§ 5.211 Disclosure of income matching information to the public housing agency.

(a) Public housing residents and section 8 tenant-based participants must disclose the letter and other information they received from HUD regarding their income (under HUD's income verification initiative) to the PHA.

(b) The PHA must verify the accuracy of the income data, change rent amounts, or terminate assistance, as appropriate, when public housing residents or Section 8 tenant-based participants disclose income information, as described in paragraph (a) of this section.

§ 5.214 [Amended]

3. Amend § 5.214 by removing the definition of ''HA''.

Subpart D—Definitions and Other General Requirements for Assistance Under the United States Housing Act of 1937

§ 5.400 [Amended]

4. Amend § 5.400 by removing the parenthetical phrase.

5. Amend § 5.403 to add a definition of *responsible entity*, to read as follows:

§ 5.403 Definitions.

* * * * *

Responsible entity means:

(1) For the public housing program, the Section 8 tenant-based assistance program (part 982 of this title), the Section 8 project-based certificate assistance program (part 983 of this title), and the Section 8 moderate rehabilitation program (part 882 of this title), the responsible entity means the PHA administering the program under an ACC with HUD;

(2) For all other Section 8 programs, the responsible entity means the Section 8 owner.

§ 5.405 [Amended]

6. Amend § 5.405 as follows:

a. By removing from the last sentence of paragraph (a) the phrase: ''who are not elderly persons, or displaced persons, or persons with disabilities'';

b. By removing paragraphs (b) and (d); and

c. By redesignating paragraph (c) as paragraph (b).

7. Revise § 5.410, to read as follows:

§ 5.410 Selection preferences.

(a) *Applicability.* The preferences for admission to the various programs differ. For each program, the preferences are administered by the responsible entity.

(b) *Local preferences in public housing.* A PHA may establish a system for admitting or selecting families for assistance that provides preference to families having certain characteristics. A system of preferences must be based on local housing needs and priorities, as determined by the PHA using generally accepted data sources, including waiting list and any information obtained during public comment on the PHA Annual Plan and under the requirements applicable to the Consolidated Plan. Additionally, consistent with the PHA's Annual Plan, the PHA should consider preferences for individuals who are victims of domestic violence.

(c) *Preferences in project-based Section 8 assistance programs other than project-based certificates and moderate rehabilitation.* (1) The responsible entity may give preference to working families. In implementing a preference for working families, the responsible entity is subject to the anti-skipping provision of paragraph (g) of this section regarding income levels. (If a responsible entity adopts a preference for working families, the entity must not give greater weight to an applicant based on the amount of employment income, and an applicant household must be given the benefit of the preference if the head of the household, spouse, or sole member of the household is age 62 or older or is receiving social security disability benefits, supplemental security income disability benefits, or any other payments based on an individual's inability to work.) A responsible entity may give preference to graduates of, as well as active participants in, educational and training programs that are designed to prepare individuals for the job market.

(2) Owners must develop a written tenant selection plan in accordance with program requirements. Owners are permitted to use PHA local preferences in their tenant selection plan. If an owner elects to make use of local preferences established by a PHA, the tenant selection plan must describe how any preferences will be used.

(d) *Preference in the Section 8 tenant-based, project-based certificate, and moderate rehabilitation programs.* The PHA may establish a system of local preferences for selection of families admitted to the program that are consistent with the PHA Plan. (See §§ 982.207, 983.203, and 882.514 of this title.)

(e) *Residency preferences.* (1) *Public housing.* A preference for admission or selection for assistance of families who reside anywhere in a specified ''residency preference area'' is permitted to respond to local needs and priorities. Applicants who are working or who have been notified that they are hired to work in the residency preference area must be treated as residents of the residency preference area, and a residency preference may not be based on how long the applicant has resided in or worked in the residency preference area.

(2) *Section 8 programs other than tenant-based certificate/voucher, project-based certificate, and moderate*

rehabilitation programs. In these programs, local residency requirements are prohibited.

(3) *Section 8 certificate/voucher, project-based certificate, and moderate rehabilitation programs.* See §§ 982.207(b), 983.203(a), and 882.514(b) of this title.

(f) *Use of other factors in public housing and project-based Section 8 housing.* The responsible entity may, in selecting a family for a particular unit, match other characteristics of the applicant family with the type of unit available, for example, number of bedrooms. In selection of a family for a unit that has special accessibility features, the responsible entity must give preference to families who include persons with disabilities and can benefit from those features of the unit (see §§ 8.27 and 100.202 of this title). Also, in selection of a family for a unit in a public housing mixed population project, the responsible entity must give preference to elderly families and disabled families (see, for example, subpart D of part 960 of this title).

(g) *Section 8 income-based admission.* In Section 8 programs, the responsible entity may not select an applicant for admission in an order different from the order on the waiting list for the purpose of selecting a relatively higher income family for admission.

(h) *Informing applicants about admission preferences.* (1) The responsible entity must inform all applicants about available preferences and must give applicants an opportunity to show that they qualify for available preferences.

(2) If the responsible entity determines that the notification to all applicants on a waiting list required by paragraph (h)(1) of this section is impracticable because of the length of the list, the responsible entity may provide this notification to fewer than all applicants at any given time.

* * * * *

§§ 5.415, 5.420, 5.425, and 5.430 [Removed]

8. Remove §§ 5.415, 5.420, 5.425, and 5.430.

Subpart F—Income Limits, Annual Income, Rent and Examinations for the Public Housing and Section 8 Programs

9. Amend § 5.601 as follows:

a. Revise the heading of § 5.601;

b. Remove existing paragraphs (a)(2)(iii) and (b);

c. Redesignate the introductory text of paragraph (a) as new paragraphs (a) and (b), introductory text;

d. Redesignate paragraphs (a)(1) through (a)(3) as paragraphs (b)(1) through (b)(3);

e. Add new paragraphs (c) and (d).

The revised heading of § 5.601, revised paragraphs (a) and (b), introductory text, and new paragraphs (c) and (d) read as follows:

§ 5.601 Purpose, applicability and reporting.

(a) *Purpose.* This subpart provides the definitions and requirements for income limits for admission, annual income, adjusted income, total tenant payments, utility allowances and reimbursements, and reexamination of income and family composition for the programs listed in paragraph (b) of this section.

(b) *Programs covered.* This subpart covers the following HUD programs:

(1) * * *

* * * * *

(c) *Income eligibility for assistance.* No family other than a low-income family shall be eligible for admission to a program covered by this subpart, unless otherwise determined by HUD.

(d) *Reporting.* PHAs and owners must comply with HUD-prescribed reporting requirements that will permit HUD to maintain the data necessary to monitor compliance with the income eligibility restrictions of this subpart.

(Approved by the Office of Management and Budget under Control number 2502–0204)

10. In § 5.603, revise the definitions of *full-time student*, and *tenant rent*, and add definitions of *extremely low-income family* and *responsible entity*, to read as follows:

§ 5.603 Definitions.

* * * * *

Extremely low-income family. A family whose annual income does not exceed 30 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families.

* * * * *

Full-time student. A person who is attending school or vocational training on a full-time basis.

* * * * *

Responsible entity. For the public housing and the Section 8 tenant-based assistance (part 982 of this title), project-based certificate assistance (part 983 of this title) and moderate rehabilitation program (part 882 of this title), the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

* * * * *

Tenant rent. The amount payable monthly by the family as rent to the unit owner (Section 8 owner or PHA in public housing).

* * * * *

§ 5.605 [Removed]

11. Remove § 5.605.

12. Revise 5.607 to read as follows:

§ 5.607 Income Limits for Admission.

(a) *Public housing.*—(1) *Income mix.* For admission to a PHA's public housing unit, the PHA may establish and use criteria for selection of residents for units in public housing developments that will produce a mix of incomes in the developments, subject to the provisions of this section. (The PHA's admissions policies that are designed to deconcentrate poverty and to bring a mix of incomes into developments are an element of its PHA Plan, part 903 of this title.)

(2) *Targeting.*—(i) *General.* At least 40 percent of the admissions to the public housing program in each fiscal year must be extremely low income families, as defined in § 5.603.

(ii) *Exceptions.* ''Credit'' provisions of paragraph (d) of this section permit the level of extremely low income families admitted to other HUD programs in a given fiscal year to affect the general targeting requirement for admissions to public housing.

(3) *Prohibition.* In complying with paragraph (a)(2) of this section, the PHA must not concentrate very low-income families in one public housing development or one building within a development. For this purpose, very low-income families includes other families with relatively low incomes.

(4) *Effect of Section 8 tenant-based assistance on public housing targeting.* The PHA may reduce the required number of public housing units to which extremely low-income families must be admitted to the extent the PHA has credits, in the same fiscal year, for admissions of extremely low-income families to its Section 8 tenant-based assistance program beyond the number required for that program.

(i) *Maximum number of credits.* The PHA may not have more credits than the lesser of:

(A) Ten percent of the total number of families admitted to the Section 8 tenant-based assistance program during the fiscal year; or

(B) The number of the PHA's public housing units in projects located in census tracts with a poverty rate of 30 percent or more that are made available and filled by eligible families who are not extremely low-income families.

(ii) *Limitation on use of credits.* In any fiscal year, at least 30 percent of a PHA's admissions to public housing units must be extremely low-income families, despite the availability of credits.

(b) *Section 8 tenant-based assistance.* (1) *Targeting.* Not less than 75 percent of the families admitted to a PHA's tenant-based Section 8 program during the PHA fiscal year must be families whose annual income does not exceed the following amounts as determined by HUD:

(i) 30 percent of the area median income, with adjustments for smaller and larger families; or (ii) A higher or lower percent of the area median income, if HUD determines a higher or lower percent is necessary because of unusually high or low family incomes.

(2) *Conversion of assistance.* Conversion of assistance for a participant in the PHA certificate program to assistance in the PHA voucher program does not count as an ''admission,'' and is not subject to targeting under paragraph (b)(1) of this section.

(3) *Inapplicability of targeting.* Admission of the following categories of families is not subject to targeting under paragraph (b)(1) of this section:

(i) A low-income family that is continuously assisted under the 1937 Act; or

(ii) A low-income or moderate-income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing, as defined at § 248.101 of this title.

(4) *Jurisdictions served by more than one PHA.* If two or more PHAs that administer Section 8 tenant-based assistance have an identical jurisdiction, these PHAs shall be treated as a single PHA for purposes of meeting the targeting requirements of this section. In such a case, the PHAs shall cooperate to assure that aggregate admissions by such PHAs comply with the targeting requirement under paragraph (b)(1) of this section. If such PHAs do not have a single fiscal year, HUD will determine which PHA's fiscal year is used for this purpose.

(5) *Use of family's income.* The annual income (gross income) of an applicant family is used both for determination of income-eligibility under § 5.601(c) and for PHA income-targeting under paragraph (b)(1) of this section.

(c) *Section 8 project-based assistance.* (1) *Applicability.* Income limits established by paragraph (c)(2) of this section apply to the following programs:

(i) Section 8 New Construction or Substantial Rehabilitation (parts 880 and 881 of this title);

(ii) Section 8 Property Disposition and Loan Management Set-Aside (part 886 of this title);

(iii) Section 8 Project-Based Certificate (part 983 of this title);

(iv) Section 8 Moderate Rehabilitation (part 882 of this title);

(v) Low-income housing preservation program (LIHPRA or ELIHPA, in effect before November 28, 1990); and

(vi) Section 8 following conversion from the Rent Supplement or Section 236 Rental Assistance Payments programs.

(2) *Targeting.* At least 40 percent of families admitted to a project in a fiscal year must be extremely low-income families.

(3) *Limitation on admission of non-very low-income families.*—(i) *Admission to units available before October 1, 1981.* Not more than 25 percent of the dwelling units that were available for occupancy under Annual Contributions Contracts (ACC) and Section 8 Housing Assistance Payments Contracts taking effect before October 1, 1981 and that are leased on or after that date shall be available for leasing by low-income families other than very low-income families. HUD reserves the right to limit the admission of low-income families other than very low-income families to these units.

(ii) *Admission to units available on or after October 1, 1981.* Not more than 15 percent of the dwelling units that initially become available for occupancy under Annual Contributions Contracts (ACC) and Section 8 Housing Assistance Payments (HAP) Contracts on or after October 1, 1981 shall be available for leasing by low-income families other than very low-income families. Except with the prior approval of HUD under paragraphs (d) and (e) of this section, no low-income family, other than a very low-income family shall be admitted to these units.

(iii) *Request for exception.* A request by a PHA or owner for approval of admission of low-income families other than very low-income families to units described in paragraph (c)(3)(ii) of this section must state the basis for requesting the exception and provide supporting data. Bases for exceptions that may be considered include the following:

(A) Need for admission of a broader range of tenants to preserve the financial or management viability of a project because there is an insufficient number of potential applicants who are very low-income families;

(B) Commitment of an owner to attaining occupancy by families with a broad range of incomes; and

(C) Project supervision by a State Housing Finance Agency having a policy of occupancy by families with a broad range of incomes supported by evidence that the Agency is pursuing this goal throughout its assisted projects in the community, or a project with financing through Section 11(b) of the 1937 Act (42 U.S.C. 1437i) or under Section 103 of the Internal Revenue Code (26 U.S.C. 103).

(iv) *Action on request for exception.* Whether to grant any request for exception is a matter committed by law to HUD's sole discretion, and no implication is intended to be created that HUD will seek to grant approvals up to the maximum limits permitted by statute, nor is any presumption of an entitlement to an exception created by the specification of certain grounds for exception that HUD may consider. HUD will review exceptions granted to owners at regular intervals. HUD may withdraw permission to exercise those exceptions for program applicants at any time that exceptions are not being used or after a periodic review, based on the findings of the review.

§ 5.609 [Amended]

13. Amend § 5.609 as follows:

a. Redesignate the introductory text of existing paragraph (b)(6) except heading as paragraph (b)(6)(ii) and redesignate existing paragraph (b)(6) (i) and (ii) as paragraphs (b)(6)(ii) (A) and (B).

b. Add, after the heading of paragraph (b)(6), a new paragraph (i) to read as follows:

* * * * *

(b) * * *

(6) * * * (i) The amount of reduced welfare income that is disregarded specifically because the family engaged in fraud or failed to comply with an economic self-sufficiency or work activities requirement.

* * * * *

c. Remove paragraphs (c)(1) and (c)(13) and renumber the remaining paragraphs as (c) (1) through (15).

d. Remove paragraph (d) and redesignate paragraph (e) as paragraph (d).

14. Revise § 5.611 to read as follows:

§ 5.611 Adjusted income.

Adjusted income means annual income (as determined by the PHA) of the members of the family residing or intending to reside in the dwelling unit, after making the following deductions:

(a) *Mandatory deductions.* In determining adjusted income, a PHA

must deduct the following amounts from annual income:

(1) $480 for each dependent;

(2) $400 for any elderly family or disabled family;

(3) The sum of the following, to the extent the sum exceeds three percent of annual income:

(i) Unreimbursed medical expenses of any elderly family or disabled family; and

(ii) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with a disability, to the extent necessary to enable any member of the family (including the member with a disability) to be employed;

(4) Any reasonable child care expenses necessary to enable a member of the family to be employed or to further his or her education; and

(5) The amount of any earned income of a family member (other than the family head or spouse) who is not 18 years of age or older.

(b) *Permissive deductions—for public housing only.* A PHA may establish other deductions from annual income. The PHA must identify these deductions in its written policies and must grant them to every family who qualifies.

15. Add a new § 5.612 to read as follows:

§ 5.612 Self-Sufficiency incentives—applicable to public housing only.

(a) *Limit on rent increases.* The PHA must not increase the annual income of an eligible family as a result of increased income due to employment during the 12-month period beginning on the date on which the employment is commenced. Eligible families are those that reside in public housing:

(1) Whose income increases as a result of employment of a family member who was previously unemployed for one or more years. For purposes of this section, ''previously unemployed'' includes a person who has earned, in the previous twelve months, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

(2) Whose employment income increases during the participation of a family member in any family self-sufficiency or other job training; or

(3) Who is or was, within 6 months, assisted under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the PHA in consultation with the local TANF agency, and whose earned income increases.

(b) *Phase-in of rent increases.* Upon expiration of the 12-month period described in paragraph (a) of this section, the rent payable by a family may be increased due to continued employment of a family member except that for the 12-month period following expiration of the 12 month disallowance, the increase may not be greater than 50 percent of the amount of the total rent increase.

(c) *Individual Savings Accounts.* As an alternative to the disallowance of earned income described in paragraph (a) of this section or the phase-in of rent increase described in paragraph (b) of this section, a PHA may provide for individual savings accounts for public housing residents who pay an income-based rent, in accordance with a written policy, which must include the following provisions:

(1) The PHA must advise the family that the savings account option is available;

(2) At the option of the family, the PHA must deposit in the savings accounts an amount equal to the total amount that otherwise would have been applied to the family's rent payment as a result of employment;

(3) Amounts deposited in a savings account may be withdrawn only for the purpose of:

(i) Purchasing a home;

(ii) Paying education costs of family members;

(iii) Moving out of public or assisted housing; or

(iv) Paying any other expense authorized by the PHA for the purpose of promoting the economic self-sufficiency of residents of public housing.

(4) The PHA must maintain the account in an interest bearing investment and must credit the family with the interest income; and

(5) At least annually the PHA must provide the family with a report on the status of the account.

(6) The PHA must provide that any balance in such an account when the family moves out is the property of the family unless the family is not in compliance with the lease.

16. Revise § 5.613 to read as follows:

§ 5.613 Total tenant payment.

(a) Total tenant payment is the highest of the following amounts, rounded to the nearest dollar:

(1) 30 percent of the family's monthly adjusted income;

(2) 10 percent of the family's monthly income;

(3) If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of those payments which is designated for housing; or

(4) Minimum rent, in accordance with applicable provisions of § 5.616.

(b) If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under paragraph (a)(3) of this section is the amount resulting from one application of the percentage.

17. Add a new § 5.614 to read as follows:

§ 5.614 Choice of rent in public housing.

(a) The amount payable monthly by the family as rent to the PHA is the rent selected annually by the family from the options offered under the PHA's rent policies. The options must include:

(1) *Flat rent.* A flat rent is the amount of tenant rent based on the market value of the unit, as determined by the PHA. The flat rent is designed to encourage self-sufficiency and to avoid creating disincentives for continued residency by families who are attempting to become economically self-sufficient. A PHA must take reasonable steps to determine market value, and generally should use a comparability study. The comparability study would analyze relevant factors for the community in which the unit is located, including unassisted rents for housing of similar age, location, condition, amenities, design and size. The PHA must maintain records regarding the calculation and establishment of flat rents; and

(2) *Income-based rent.* An income-based rent is the amount of tenant rent based on the family's income, as determined by the PHA, and the PHA's rent policies, which may specify a percentage of family income, a schedule of amounts, or some other feasible system. The income-based rent, including any applicable utility allowance, must not exceed the total tenant payment. A PHA may administer income-based rents in a way that involves depositing a portion of the tenant rent to an escrow or savings account, imposing a ceiling on tenant rents, adopting permissive income deductions (24 CFR 5.611(b)), or other reasonable amounts, as long as the tenant rent plus any utility allowance does not exceed total tenant payment. (See § 5.611(b).)

(b) *Ceiling rent.* A PHA may retain ceiling rents instead of flat rents for a period of three years from [*insert effective date of final rule*]. After this three year period, the PHA must adjust the ceiling rents to the same level as flat

rents under this section; however, ceiling rents are subject to paragraph (a) of this section, the annual reexamination requirements, and the limitation that the tenant rent plus any utility allowance may not exceed the total tenant payment.

(c) *Information for families.* For the family to make an informed choice about its rent options, the PHA must provide sufficient information for an informed choice. Such information must include at least the following information:

(1) The dollar amounts of tenant rent for the family under each option; and

(2) The PHA's policies on switching type of rent in circumstances of financial hardship.

(d) *Changing type of rental payment.* If the PHA determines that the family is unable to pay the flat rent because of financial hardship, the PHA must immediately switch the family's rental payment from flat rent to income-based rent.

(e) *Written policies on financial hardship.* The PHA must establish written policies for determining financial hardship circumstances. Policies must include situations in which the family:

(1) Has experienced a decrease in income because of changed circumstances, loss or reduction of employment, death in the family, and reduction in or loss of earnings or other assistance;

(2) Has experienced an increase in expenses, because of changed circumstances, for medical costs, child care, transportation, education, or similar items; and

(3) Such other situations determined by the PHA to be appropriate.

18. Add a new § 5.616, to read as follows:

§ 5.616 Minimum rent.

(a) *Minimum rent.* A family must pay at least a minimum rent, established by the responsible entity. For public housing and the section 8 certificate, voucher and moderate rehabilitation programs, the PHA may establish a minimum rent of $0 to $50. For other section 8 programs, the amount is $25. This minimum rent includes tenant rent plus any utility allowance. The responsible entity must grant an exemption from payment of this minimum rent if the family is unable to pay that rent as a result of financial hardship, as described in the responsible entity's written policies.

(b) *Financial hardship.* The financial hardships that must be included are the following:

(1) When the family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program;

(2) When the family would be evicted as a result of the imposition of the minimum rent requirement;

(3) When the income of the family has decreased because of changed circumstances, including loss of employment;

(4) When a death has occurred in the family; and

(5) Other circumstances determined by the responsible entity or HUD.

(c) *Request for hardship exemption.*—(1) *For public housing.* (i) If a family requests a hardship exemption, the PHA must suspend the minimum rent requirement immediately, until the PHA determines whether there is a qualifying financial hardship and whether the hardship is long-term.

(ii) If the PHA determines that there is a qualifying hardship, but that it is temporary, the PHA reinstates the minimum rent from the time of suspension. The PHA cannot evict the family for nonpayment of the amount of minimum rent in excess of tenant rent otherwise payable during the 90-day period beginning on the date the family requested an exemption. The PHA must offer the family a reasonable repayment agreement for the amount of back rent owed.

(2) *For section 8 certificate, voucher and moderate rehabilitation programs and project-based section 8 assistance.* (i) If a family requests a hardship exemption, the responsible entity must suspend the minimum rent requirement beginning the month following the family's hardship request until the responsible entity determines whether there is a qualifying financial hardship and whether it is temporary or long term.

(ii) If the responsible entity determines that there is a qualifying financial hardship, but that it is temporary, the responsible entity may not impose a minimum rent for a period of 90 days from the date of the family's request. At the end of the 90-day suspension period, a minimum rent is imposed retroactively to the time of suspension. The family must be offered a responsible repayment agreement for the amount of back rent owed.

(3) *For all programs.* (i) If the responsible entity determines there is no qualifying hardship exemption, the responsible entity must reinstate the minimum rent including the back payment for minimum rent from the time of suspension on terms and conditions established by the responsible entity.

(ii) If the responsible entity determines there is a qualifying long-term financial hardship, the responsible entity must exempt the family from the minimum rent requirements.

(d) *Appeal of financial hardship determination.* A family who appeals a financial hardship determination through the public housing grievance procedure is exempt from any escrow deposit that may be required by the regulations governing these procedures.

19. In § 5.617, revise paragraph (a); redesignate existing paragraph (b) as paragraph (c); and add a new paragraph (b), to read as follows:

§ 5.617 Redetermination and verification of family income and composition.

(a) *Initial determination and regular redeterminations.*—(1) *Section 8.* The responsible entity must conduct a redetermination of family income and composition at least annually.

(2) *Public housing.* (i) For families who pay an income-based rent, the PHA must conduct a redetermination of family income and composition at least annually and must make appropriate adjustments in the rent after consultation with the family and upon verification of the information.

(ii) For families who choose flat rents, the PHA must review the income of the family in accordance with the PHA's established policies, at least once every three years.

(iii) For all families who include nonexempt individuals, as defined in 24 CFR 960.602, the PHA must determine compliance once each 12 months with community service and self-sufficiency requirements in 24 CFR 960, subpart F.

(iv) The PHA may use the results of these evaluations to require the family to move to an appropriate size unit.

(b) *Interim redeterminations.*—(1) *When the redetermination is conducted.* A family may request an interim redetermination of family income or composition because of any changes since the last determination. The responsible entity must make the interim redetermination within a reasonable time after the family request. The responsible entity may adopt policies prescribing when and under what conditions the family must report a change in family composition.

(2) *How the redetermination is conducted.* In the case of a PHA, interim redeterminations must be conducted consistent with policies in its PHA Annual Plan. The change in income is annualized, even if the income is not expected to last for a full year. If the income changes again, the new amount

of monthly income will be annualized again.

* * * * *

20. Add a new § 5.618, to read as follows:

§ 5.618 Treatment of income changes resulting from welfare program requirements for public housing and section 8 tenant-based programs.

(a) *General.* A responsible entity must not reduce the annual income of a family residing in public housing or reduce the contribution toward rent of a family receiving Section 8 tenant-based assistance because of a reduction in the family's welfare assistance specifically because of fraud or failure to participate in an economic self-sufficiency program or comply with a work activities requirement. A reduction in welfare assistance is not to be treated as failure to participate in an economic self-sufficiency program or to satisfy a work activities requirement if the reduction results from:

(1) The expiration of a lifetime limit on receiving benefits;

(2) When a family has sought but cannot find employment; or

(3) The family has complied with welfare program requirements but loses welfare because of a durational time limit such as a cap on welfare benefits for a period of no more than two years in a five-year period.

(b) *Verification.* When a family requests a rent reduction based on a reduction in family income from welfare, the responsible entity must obtain written verification from the welfare agency of the basis for the reduction. If the reduction is specifically the result of the family's failure to participate in an economic self-sufficiency program or comply with work activities requirements or fraud by the family, the responsible entity must not reduce the family's rent.

(c) *Notification to families.* Responsible entities must notify families who are adversely affected by the requirements of this section that they have the right to review through the PHA's grievance procedure (for public housing) without paying a deposit in escrow, or through use of the informal hearing procedure under 24 CFR 982.555(a)(i) (for Section 8 tenant-based certificate and voucher programs).

21. Add a new § 5.619, to read as follows:

§ 5.619 Occupancy by police officers in public housing and section 8 project-based housing.

(a) *Public housing*—(1) *Police officer.* A person determined by the PHA to be, during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a Federal, State or local government or by any agency of these governments. An officer of an accredited police force of a housing agency may qualify.

(2) *Occupancy in public housing.* For the purpose of increasing security for the residents of a public housing development, the PHA may allow police officers who would not otherwise be eligible for public housing, to reside in a public housing dwelling unit. The PHA must include in its PHA Annual Plan the number and location of the units to be occupied by police officers, and the terms and conditions of their tenancies.

(b) *Section 8 project-based housing*—(1) *Police officer (including security personnel).* To be considered eligible for occupancy in section 8 project-based housing, the police officer must be employed full time (not less than 35 hours per week) by a governmental unit or a private employer and compensated expressly for providing police or security services.

(2) *Occupancy in section 8 project-based housing.* (i) Owners must submit a written plan to their local HUD Field Office for authorization to lease an available unit to over-income police officers. The owner's application must include:

(A) A statement detailing existing social and physical conditions of the property and the owner's informed assessment of the need for crime deterrence for that property;

(B) A statement of the anticipated benefits that the presence of police officers will create at the property and in the community;

(C) A description of the proposed gross rent for the unit and any special conditions for occupancy, including the rent that would ordinarily be charged for the unit and the owner's annual maintenance cost for the unit (this rent may be a flat rent and not related to the income of the police officer);

(D) The terms of the lease including a provision that states that the police officer's right of occupancy is dependent on the continuation of the employment that qualified the officer for residency in the property under the plan;

(ii) An owner may not offer a unit to a police officer if the officer would displace an income eligible tenant from leasing the available unit, or would require an existing tenant to move to make the unit available to the officer.

PART 960—ADMISSION TO, AND OCCUPANCY OF, PUBLIC HOUSING

22. The authority citation for part 960 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437d, 1437n, and 3535(d).

Subpart B—Admission, Rent and Reexamination

§ 960.204 [Amended]

23. Amend § 960.204 by removing from paragraph (a)(2)(iii) the phrase ''federal preference, ranking preference, or local'', in paragraph (a)(3)(ii) by adding a semicolon after the words ''waiting list'', and by removing the remainder of paragraph (a)(3)(ii).

24. Revise § 960.209 to read as follows:

§ 960.209 Regular and interim redeterminations and verification of family income and composition.

The PHA must conduct regular and interim redeterminations of family income and composition in accordance with § 5.617 of this title.

Subpart D—Preference for Elderly Families and Disabled Families in Mixed Population Projects

25. Revise § 960.407 to read as follows:

§ 960.407 Selection preference for mixed population projects.

(a) The PHA must give preference to elderly families and disabled families equally in determining priority for admission to mixed population projects. The PHA may not establish a limit on the number of elderly families or disabled families who may be accepted for occupancy in a mixed population projects.

(b) In offering available units to elderly families and disabled families in mixed population projects, the PHA should first offer units with accessible features to persons with disabilities who require the accessibility features of the unit, in accordance with the requirements of §§ 8.27 and 100.202(c)(3) of this title.

26. Revise subpart E to read as follows:

Subpart E—Occupancy by Over-Income Families

Sec.

960.503 Definitions.
960.505 Occupancy by over-income families in certain public housing.

Subpart E—Occupancy by Over-Income Families

§ 960.503 Definitions.

Eligible families. Families who are eligible for residence in public housing assisted under the United States Housing Act of 1937 (42 U.S.C. 1437).

Over-income family. An individual or family who is not a low-income family at the time of initial occupancy.

§ 960.505 Occupancy by over-income families in certain public housing.

A PHA that owns or operates fewer than two hundred fifty (250) units, may rent a unit in a public housing development to an over-income family, in accordance with its PHA Annual Plan, under the following circumstances.

(a) There are no eligible families on the waiting list; or

(b) There are no eligible families applying for assistance in that month;

(c) Before offering the unit to an over-income family, the PHA publicizes the availability of the unit for eligible families—including publishing a thirty (30) day notice in one newspaper of general circulation;

(d) The over-income family rents the unit on a month-to-month basis for a rent charge that is not less than the cost to operate the unit;

(e) The over-income family signs an agreement to vacate the unit when needed by an eligible family; and

(f) The PHA gives the over-income family notice to vacate the unit when the unit is needed for an eligible family, and this notice is given at least thirty (30) days before the over-income family is to vacate.

27. Add a new subpart F to read as follows:

Subpart F—Community Service and Self-Sufficiency Requirements

Sec.

§ 960.603 Definitions.
§ 960.605 General requirements.
§ 960.607 Determining resident noncompliance.
§ 960.609 Prohibition against replacement of employees.
§ 960.611 Third-party coordinating.

Subpart F—Community Service and Self-Sufficiency Requirements

§ 960.603 Definitions.

Exempt individual. An adult who is:

(1) 62 years or older;

(2) Is a person with vision impairment or other person with disabilities, as defined under 216(i)(l) or 1614 of the Social Security Act (42 U.S.C. 416(i)(1); 1382c), and who is unable to comply with this section, or is a primary caretaker of such individual;

(3) Is engaged in a work activity as defined under section 407(d) of the Social Security Act (42 U.S.C.607(d), as in effect on and after July 1, 1997);

(4) Meets the requirements for being exempted from having to engage in a work activity under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 *et seq.*) or under any other welfare program of the State in which the PHA is located, including a State-administered welfare-to-work program; or

(5) Is in a family receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 *et seq.*) or under any other welfare program of the State in which the public Housing Agency is located, including a State-administered welfare to work program, and has not been found by the State or other administering entity to be in noncompliance with such a program.

Community Service. For purposes of this section, community service is the performance of voluntary work or duties in the public benefit that serve to improve the quality of life and/or enhance resident self-sufficiency, or/ and increase the self-responsibility of the resident within the community in which the resident resides. Political activity is excluded.

Economic Self-Sufficiency program. Any program designed to encourage, assist, train, or facilitate the economic independence of participants and their families or to provide work for participants. These programs may include programs for job training, employment training, work placement, basic skills training, education, English proficiency, work fare, financial or household management, apprenticeship, and any program necessary to ready a participant to work (such as substance abuse or mental health treatment).

§ 960.605 General Requirements.

(a) *Participation.* Except for residents exempted in § 960.603 of this subpart, each adult resident of a public housing development shall:

(1) Contribute 8 hours per month of community service (not including political activities); or

(2) Participate in an economic self-sufficiency program for 8 hours per month.

(b) *Effective date of participation.* The requirement is effective for all nonexempt residents following execution of a lease, containing these provisions, by the family head of household.

(c) *PHA obligation.* PHAs must, at a minimum:

(1) Develop a local policy for administration of a community service and economic self-sufficiency program.

(2) Provide written notification of the provisions of the community service requirements to all residents. The notice should describe the requirement, identify who is exempt and how exemption will be verified. The PHA should state when the requirement is effective, as well as the obligations and responsibilities of adult family members, and the consequences of non-compliance.

(3) Determine for each public housing family which family members are subject to or exempt from the community service and self-sufficiency requirement and approves the resident's planned activities to fulfill the requirement.

(4) No more or less frequently than annually, review and determine the compliance of residents with the requirements at least 30 days before lease term expires. Determine any changes to each adult family members exempt or nonexempt status.

(5) Retain reasonable documentation of community service participation or exemption in participant files.

(6) Comply with the civil rights requirements in 24 CFR part 5.

§ 960.607 Determining resident noncompliance.

If the PHA determines that a resident who is not an ''exempt individual'' has not complied with the community service requirement, the PHA must notify the resident:

(a) Of the noncompliance;

(b) That the determination is subject to the PHA's administrative' grievance procedure;

(c) That unless the resident enters into an agreement under paragraph (d) of this section, the lease of the family of which the noncompliant adult is a member may not be renewed. However, if the noncompliant adult moves from the unit, the lease may be renewed;

(d) That before the expiration of the lease term, the PHA must offer the resident an opportunity to cure the noncompliance during the next twelve-month period; such a cure includes a written agreement by the noncompliant adult to complete as many additional hours of community service or economic self-sufficiency activity needed to make up the total number of hours required over the 12 month term of the lease.

§ 960.609 Prohibition against replacement of employees.

In implementing the community service requirement, the PHA may not

substitute community service for work ordinarily performed by public housing employees or replace a job at any location where community work requirements are performed.

§ 960.611 Third-party coordinating.

The PHA may administer the community service directly, or through partnerships with qualified organizations, including resident organizations, or agencies or institutions with a community mission. The PHA must ensure that community service programs that are based directly or through partnerships with qualified organizations or through contracts with such organizations are accessible to persons with disabilities.

PART 966—LEASE AND GRIEVANCE PROCEDURES

28. The authority citation for part 966 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437d note, and 3535(d).

29. In § 966.4, revise the introductory text and add a new paragraph (f)(13), to read as follows:

§ 966.4 Lease requirements.

Each public housing lease must have a 12-month term, which must be automatically renewed for all purposes except noncompliance by an adult member with the community service requirements of part 960, subpart F of this title.

* * * * *

(f) * * *

(13) To contribute 8 hours per month of community service (not including political activities), unless otherwise exempt. The 8 hour each month requirement can be a combination of PHA-approved community service or economic self-sufficiency activities. (See part 960, subpart F of this title.)

30. Revise § 966.55(e) to read as follows:

§ 966.55 Procedures to obtain a hearing.

* * * * *

(e) *Escrow deposit.* (1) Before a hearing is scheduled in any grievance involving the amount of rent (as defined in § 966.4(b) of subpart A of this part) that the PHA claims is due, the family must pay an escrow deposit to the PHA. When a family is required to make an escrow deposit, the amount is the amount of rent the PHA states is due and payable as of the first of the month preceding the month in which the family's act or failure to act took place. After the first deposit, the family must deposit the same amount monthly until the family's complaint is resolved by decision of the hearing officer or hearing panel.

(2) A PHA must waive the requirement for an escrow deposit where required by § 5.616 of this title (concerning financial hardship of minimum rent requirements) or § 5.618 of this title (concerning reduction in welfare benefits related to work requirements). Unless the PHA waives the requirement, the family's failure to make the escrow deposit will terminate the grievance procedure. A family's failure to pay the escrow deposit does not waive the family's right to contest in any appropriate judicial proceeding the PHA's disposition of the grievance.

* * * * *

PART 984—SECTION 8 AND PUBLIC HOUSING FAMILY SELF-SUFFICIENCY PROGRAM

31. The authority citation for part 984 continues to read as follows:

Authority: 42 U.S.C. 1437f, 1437u, and 3535(d).

32. Throughout part 984, remove the terms ''an HA'' and ''HA'' and add in their place the terms ''a PHA'' and ''PHA''.

33. Amend § 984.101 by removing paragraph (c) and revising paragraph (b)(3) to read as follows:

§ 984.101 Purpose, scope, and applicability.

* * * * *

(b) * * *

(3) Unless the PHA receives an exemption under § 984.105:

(i) Each PHA that receives funding for additional rental certificates or rental vouchers in FY 1993 through October 20, 1998, must operate a Section 8 FSS program. Receiving funding for additional certificates or vouchers means reservation of funds for the Section 8 certificate or voucher program.

(ii) Each PHA that receives funding for additional public housing units in FY 1993 through October 20, 1998, must operate a public housing FSS program. Receiving funding for additional public housing units means reservation of funds to acquire or construct additional public housing units.

34. In § 984.103, revise the definition of *welfare assistance* to read as follows:

§ 984.103 Definitions.

* * * * *

Welfare assistance means income assistance from Federal or State welfare programs, and includes assistance provided under the Temporary Assistance to Needy Families (TANF) program, and general assistance. Welfare assistance does not include assistance solely directed to meeting housing expenses, and does not include programs that provide health care, child care or other services for working families.

* * * * *

§ 984.105 [Amended]

35. Amend § 984.105 as follows:

a. Revise paragraph (a);

b. Redesignate paragraphs (d)(1), (d)(2), (d)(3), and (d)(4) as paragraphs (d)(1)(i), (d)(1)(ii), (d)(1)(iii), and (d)(1)(iv);

c. Redesignate the text of paragraph (d) as (d)(1) and add a new heading for redesignated paragraph (d)(1); and

d. Add a new paragraph (d)(2). The revised and added paragraphs of § 984.105 read as follows:

§ 984.105 Minimum program size.

(a) *General.* A PHA must operate an FSS program of the minimum size determined in this section. Paragraph (c) of this section prescribes the conditions under which HUD may grant an exception to this requirement, and paragraph (d) of this section states the conditions under which the minimum size calculated under this paragraph (a) may be reduced. A PHA may always operate a program of a larger size than the minimum.

(1) *Determining minimum program size.* The minimum size of an FSS program is equal to:

(i) *Public housing.* (A) The total number of public housing units reserved in FY 1993 through October 20, 1998; plus

(B) The number of public housing units reserved in FY 1991 and FY 1992 under the FSS incentive award competitions; minus

(C) The number of families that have graduated from the FSS program on or after October 21, 1998, by fulfilling their FSS contract of participation obligations.

(ii) *Section 8.* (A) The total number of applicable rental certificates and rental vouchers reserved in FY 1993 through October 20, 1998; plus

(B) The number of rental certificates and rental vouchers reserved under the combined FY 1991/1992 FSS incentive award competition; minus

(C) The number of families who have graduated from the FSS program on or after October 21, 1998, by fulfilling their contract of participation obligations.

(2) *Applicable public housing units.* In determining minimum program size, all additional public housing rental units reserved in FY 1993 through October 20, 1998 will be counted.

(3) *Inapplicable Section 8 certificates and vouchers.* (i) *Renewals.* Except for

the renewal of funding that initially carried an FSS program obligation, renewal funding for rental certificates and vouchers reserved in fiscal year 1993 through October 20, 1998 is not counted when determining the FSS minimum program size.

(ii) *PHAs with existing FSS obligation*. When determining the minimum FSS program size for a PHA that already had an FSS obligation, funding reserved in fiscal year 1993 through October 20, 1998 for the following categories is not counted:

(A) Funding for families affected by the termination, expiration or owner opt-outs under Section 8 project-based programs;

(B) Funding for families affected by demolition or disposition of a public housing project and replacement of public housing projects;

(C) Funding for families affected by conversion of assistance from the Section 23 leased housing or housing assistance payments program to the Section 8 program;

(D) Funding for families affected by the sale of a HUD-owned project; and (E) Funding for families affected by the prepayment of a mortgage or voluntary termination of mortgage insurance.

(iii) *PHAs with no existing FSS obligation*. If a PHA with no existing FSS obligation received certificate and voucher funding under the categories described in paragraph (a)(3)(ii) of this section in fiscal year 1993 through October 20, 1998, the first such funding counts towards the PHA's minimum FSS program size.

* * * * *

(d) * * *

(1) *Approval of exception*. * * *

(2) *Expiration of exception*. Full and partial exceptions to the minimum size of an FSS program will expire three years from the date of HUD's approval of the exceptions. If a PHA seeks to continue an exception after its expiration, the PHA must submit a new request and a new certification to HUD for consideration. Revised FSS Action Plan policies must be stated in the PHA's Annual Plan.

* * * * *

36. Revise paragraphs (a) and (c) of § 984.201 to read as follows:

§ 984.201 Action Plan.

(a) *Requirement for Action Plan*. A PHA must have a HUD-approved Action Plan that complies with the requirements of this section before the PHA implements an FSS program, whether the FSS program is a mandatory or voluntary program.

* * * * *

(c) *Plan submission*.—(1) *Initial submission*.

(i) *Mandatory program*. Unless the dates stated in paragraph (c) of this section are extended by HUD for good cause, a PHA that is establishing its first FSS program must submit an Action Plan to HUD for approval within 90 days after the PHA receives notice from HUD of:

(A) Approval of the PHA's application for incentive award units; or (B) Approval of other funding that establishes the obligation to operate an FSS program, if the PHA did not apply for FSS incentive award units.

(ii) *Voluntary program*. The PHA must submit its Action Plan and obtain HUD approval of the plan before the PHA implements a voluntary FSS program, including a program that exceeds the minimum size for a mandatory program.

(2) *Revision*. Following HUD's initial approval of the Action Plan, no further approval of the Action Plan is required unless the PHA proposes to make policy changes to the Action Plan or increase the size of a voluntary program; or HUD requires other changes. The PHA must submit any changes to the Action Plan to HUD for approval.

* * * * *

§ 984.301 [Amended]

37. Amend § 984.301 by redesignating paragraphs (a)(1), (a)(2), and (a)(3), as paragraphs (a)(2)(i), (a)(2)(ii), and (a)(2)(iii); adding a new paragraph (a)(1) and a new heading for redesignated paragraph (a)(2) to read as follows:

§ 984.301 Program implementation.

(a) *Program implementation deadline*. (1) *Voluntary program*. There is no deadline for implementation of a voluntary program. A voluntary program, however, may not be implemented before the requirements of § 984.201 have been satisfied.

(2) *Mandatory program*. * * *

* * * * *

38. Revise § 984.306 (b) to read as follows:

§ 984.306 Section 8 residency and portability requirements.

* * * * *

(b) *Initial occupancy*.—(1) *First 12 months*. A family participating in the Section 8 FSS program must lease an assisted unit, for a minimum period of 12 months after the effective date of the contract of participation, in the jurisdiction of the PHA that selected the family for the FSS program. However, the PHA may approve a family's request to move outside of the PHA's jurisdiction during this period.

(2) *After the first 12 months*. After the first 12 months of the FSS contract of participation, the FSS family may move outside the jurisdiction of the initial PHA, consistent with applicable Section 8 program regulations (part 982 of this title).

* * * * *

Dated: April 8, 1999.

Andrew Cuomo,

Secretary.

[FR Doc. 99–10565 Filed 4–29–99; 8:45 am]

BILLING CODE 4210–32–P

Friday
April 30, 1999

Part IV

Department of Housing and Urban Development

24 CFR Parts 200, 203 and 234
Single Family Mortgage Insurance; Clarification of Floodplain Requirements Applicable to New Construction; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 200, 203, and 234

[Docket No. FR–4323–P–01]

RIN 2502–AH16

Single Family Mortgage Insurance; Clarification of Floodplain Requirements Applicable to New Construction

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend HUD's Single Family Mortgage Insurance Minimum Property Standards concerning flood hazard exposure. The rule would clarify that it is the location of the dwelling and any related structures/equipment that determines whether the flood hazard exposure and National Flood Insurance purchase requirements apply. If the property improvements are located within the 100-year floodplain, the proposed rule would permit mortgagees to submit an Elevation Certificate in place of a final Letter of Map Amendment or a final Letter of Map Revision. The proposed rule would also remove obsolete provisions concerning subdivisions and improved area processing, and would make a number of clarifying revisions.

DATES: *Comments Due Date:* June 29, 1999.

ADDRESSES: Submit your comments about this proposed rule to the Office of the General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Your comments should refer to the above docket number and title. We do not accept facsimile (FAX) comments. A copy of each communication submitted will be available for public inspection and copying during regular business hours (7:30 a.m. to 5:30 p.m.) at the above address.

FOR FURTHER INFORMATION CONTACT: Mark Holman, Chief, Mortgage Underwriting and Insurance Branch, Office of Insured Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–8000, Room 9270; telephone (202) 708–2121 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number by calling the toll-free Federal Information Relay Service at (800) 877–8399.

SUPPLEMENTARY INFORMATION:

I. Background

a. Flood Hazard Requirements

HUD's Minimum Property Standards (MPS) for the Single Family Mortgage Insurance Program are set out at 24 CFR §§ 200.926 to 200.926e. The current regulations at § 200.926d(c)(4) (entitled ''Drainage and flood hazard exposure'') contain construction requirements covering drainage and flood hazard exposure. The current regulations at § 200.926d(c)(4)(vii), in particular, require a Direct Endorsement (DE) or Lender Insurance (LI) mortgagee to determine whether a property is located within a 100-year floodplain (as designated on maps issued by the Federal Emergency Management Agency (FEMA)). The DE or LI mortgagee must make this determination before seeking to insure a mortgage on a newly constructed one- to four-family dwelling.

If the DE or LI mortgagee determines that the property is located within a 100-year floodplain, the mortgagee must obtain, before the mortgage may be insured, a final Letter of Map Amendment (LOMA) or a final Letter of Map Revision (LOMR) from FEMA. In addition, HUD's insurance eligibility regulations (24 CFR 203.16a, entitled ''Mortgagor and mortgagee requirement for maintaining flood insurance coverage'') for these programs require the mortgagor and mortgagee to purchase and maintain insurance under the National Flood Insurance Program (42 U.S.C. 4001–4129).

This proposed rule would revise these provisions in two ways. First, the proposed rule would clarify that it is the location of the dwelling and related structures/equipment, and not simply any portion of the property, that triggers these requirements. To be considered related, structures/equipment must be essential to the value of the property and subject to flood damage. This clarification is consistent with HUD's interpretation of the provisions of the current regulations, as reflected in HUD's Mortgagee Letter 97–41, issued August 27, 1997.

Second, the proposed rule would amend § 200.926d(c)(4)(vii) (note: the proposed rule would redesignate this section as § 200.926d(c)(4)(iv); the current § 200.926d(c)(4)(iv) would be removed by the proposed rule—see section I.b. of this preamble) to add an alternative to obtaining a LOMA or LOMR. This amendment would allow a mortgagee to submit, in place of a LOMA or LOMR, an Elevation Certificate (EC) documenting that the lowest floor (including basement) of the property improvement is built at, or above, the 100-year flood elevation in compliance with National Flood Insurance Program criteria at 44 CFR 60.3 through 60.6. This alternative would provide more flexibility and, potentially, would have less impact on the floodplain than filling to the 100-year floodplain elevation as may be needed for a LOMA.

b. Obsolete Provisions

The proposed rule would remove obsolete provisions in § 203.12 (entitled ''Mortgage insurance on proposed or new construction in a new subdivision'') concerning subdivisions and improved areas and would make conforming amendments to other provisions to reflect the removal of these terms. The proposed rule would amend § 234.1 (entitled ''Cross-reference'') to reflect the new heading for § 203.12.

The proposed rule would also remove current § 200.926d(c)(4)(iv) (entitled '' 'Critical Actions' ''). The term ''Critical Actions'' is defined at 24 CFR 55.2(b)(2). The proposed rule would remove this provision because the Single Family Mortgage Insurance Program does not involve the type of actions encompassed under the term ''Critical Action''. In addition, the first sentence in paragraph (c)(4)(iv) incorrectly provides that the lowest floor of a structure must be at or above the FEMA-designated ''500-year'' frequency flood elevation. The current § 200.926d(c)(4)(vii) would be redesignated as § 200.926d(c)(4)(iv).

c. Clarifications

The proposed rule would make the following revisions to correct exceptions from coverage that are drawn more broadly than intended in the current regulations. Section 200.926(a)(1) (entitled ''Residential building code comparison items'') would be revised to make it clear that all of the provisions of § 200.926d(c)(4) apply to four-unit homes. As currently drafted, only the provision on ''Critical Actions'' applies. The proposed rule would make a similar revision to § 200.926d(c)(1)(ii) so that all of 200.926d(c)(4) would apply to a community, whether or not the community has adopted criteria for site development.

Section 200.926d(c)(1)(iii), as currently drafted, appears to exempt residential structures without basements from the 100-year elevation requirement, if the dwelling is a single family detached house situated on an individual lot located on an existing street with utilities. This is incorrect. HUD intends these structures to be

subject to the same elevation requirements as are structures with basements. The proposed rule would correct this error by removing the reference to § 200.926d(c)(4)(ii) (entitled ''Residential structures without basements located in FEMA-designated areas of special flood hazard'') in § 200.926d(c)(1)(iii) (entitled ''Residential structures located in FEMA-designated 'coastal high hazard areas.' '').

II. Findings and Certifications

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91–190, 83 Stat. 852, 853, approved January 1, 1970, codified as amended at 42 U.S.C. 4321–4347, 4332). The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

Paperwork Reduction Act Statement

The information collection requirement contained at § 203.12 of this rule has been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 109 Stat. 163, approved May 22, 1995, codified at 44 U.S.C. 3501–3520), and assigned OMB control number 2502–0496. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, approved September 19, 1980, codified as amended at 5 U.S.C. 601–612), has reviewed this proposed rule before publication, and by approving it certifies that this rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule would serve two primary purposes. First, it would allow mortgagees greater flexibility by allowing them to comply with floodplain requirements through the submission of an additional type of document. Second, the proposed rule would remove obsolete provisions and make clarifying amendments to the regulations. These changes reflect HUD's current interpretation of its regulations and would not increase the regulation's burden. These changes are being proposed in order to make the regulations clearer and more accurate.

While HUD has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities, HUD welcomes any comments regarding alternatives to this rule that would meet HUD's objectives, as described in this preamble, and would be less burdensome to small entities.

Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612 (entitled ''Federalism''), has determined that the policies contained in this proposed rule would not have substantial direct effects on States or their political subdivisions, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for part 203 is 14.117 and for part 234 is 41.112.

List of Subjects

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Home improvement, Housing standards, Incorporation by reference, Lead poisoning, Loan programs—housing and community development, Minimum property standards, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

24 CFR Part 203

Hawaiian Natives, Home improvement, Indians—lands, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

24 CFR Part 234

Condominiums, Mortgage insurance, Reporting and recordkeeping requirements.

Accordingly, 24 CFR parts 200, 203, and 234 are amended as follows:

PART 200—INTRODUCTION TO FHA PROGRAMS

1. The authority citation for 24 CFR part 200 continues to read as follows:

Authority: 12 U.S.C. 1701–1715z–18; 42 U.S.C. 3535(d).

2. Revise § 200.926(a)(1) to read as follows:

§ 200.926 Minimum property standards for one and two family dwellings.

(a) * * * (1) *Applicable structures.* The standards identified or contained in this section, and in §§ 200.926a–200.926e, apply to single family detached homes, duplexes, three-unit homes, and to living units in a structure where the units are located side-by-side in town house fashion. Section 200.926d(c)(4) also applies to four-unit homes.

* * * * *

3. Amend § 200.926d as follows:

a. Revise paragraph (c)(1)(ii);

b. Revise paragraph (c)(1)(iii);

c. Revise paragraph (c)(4)(iv); and

d. Remove paragraph (c)(4)(vii).

The revisions read as follows:

§ 200.926d Construction requirements.

* * * * *

(c) * * *

(1) * * *

(ii) With the exception of paragraph (c)(4) of this section, these site design standards apply only in communities that have not adopted criteria for site development applicable to one and two family dwellings.

(iii) Single family detached houses situated on individual lots located on existing streets with utilities need not comply with the requirements of paragraphs (c)(2) and (c)(3) of this section.

* * * * *

(4) * * *

(iv)(A) In all cases in which a Direct Endorsement (DE) mortgagee or a Lender Insurance (LI) mortgagee seek to insure a mortgage on a newly constructed one- to four-family dwelling (including a newly erected manufactured home) that was processed by the DE or LI mortgagee, the DE or LI mortgagee must determine whether the property improvements (dwelling and related structures/equipment essential to the value of the property and subject to flood damage) are located in a 100-year floodplain, as designated on maps of the Federal Emergency Management Agency. If so, the DE mortgagee, before submitting the application for insurance to HUD, or the LI mortgagee, before submitting all the required data regarding the mortgage to HUD, must obtain:

(*1*) A final Letter of Map Amendment (LOMA);

(*2*) A final Letter of Map Revision (LOMR); or

(*3*) A signed Elevation Certificate documenting that the lowest floor

(including basement) of the property improvements is built at or above the 100-year flood elevation in compliance with National Flood Insurance program criteria 44 CFR 60.3 through 60.6.

(B) Under the DE program, these mortgages are not eligible for insurance unless the DE mortgagee submits the LOMA, LOMR, or Elevation Certificate to HUD with the mortgagee's request for endorsement.

* * * * *

PART 203—SINGLE FAMILY MORTGAGE INSURANCE

4. The authority citation for 24 CFR part 203 continues to read as follows:

Authority: 12 U.S.C. 1709, 1710, 1715b, and 1715u; 42 U.S.C. 3535(d).

5. Revise § 203.12 to read as follows:

§ 203.12 Mortgage insurance on proposed or new construction.

(a) *Applicability.* This section applies to an application for insurance of a mortgage on a one- to four-family dwelling, unless the mortgage will be secured by a dwelling that:

(1) Was completed more than one year before the date of the application for insurance or, under the Direct Endorsement Program was completed more than one year before the date of the appraisal; or

(2) Is being sold to a second or subsequent purchaser.

(b) *Procedures.* (1) Applications for insurance to which this section applies, will be processed in accordance with procedures prescribed by the Secretary. These procedures may only provide for endorsement for insurance of a mortgage covering a dwelling that is:

(i) Approved under the Direct Endorsement Program, or the Lender Insurance Program; or

(ii) Located in a subdivision approved by the Rural Housing Service.

(2) The mortgagee must submit a signed Builder's Certification of Plans, Specifications and Site (Builder's Certification). The Builder's Certification must be in a form prescribed by the Secretary and must cover:

(i) Flood hazards;

(ii) Noise;

(iii) Explosive and flammable materials storage hazards;

(iv) Runway clear zones/clear zones;

(v) Toxic waste hazards;

(vi) Other foreseeable hazards or adverse conditions (i.e., rock formations, unstable soils or slopes, high ground water levels, inadequate surface drainage, springs, etc.) that may affect the health and safety of the occupants or the structural soundness of the improvements. The Builder's Certification must be provided to the appraiser for reference before the performance of an appraisal on the property.

(3) If a builder (or developer) intends to sell five or more properties in a subdivision, an Affirmative Fair Housing Marketing Plan (AFHMP) that meets the requirements of 24 CFR part 200, subpart M must be submitted and approved by HUD no later than the date of the first application for mortgage insurance in that subdivision. Thereafter, applications for insurance on other properties sold by the same builder (or developer) in the same subdivision may make reference to the existing previously approved AFHMP.

6. Revise § 203.16a to read as follows:

§ 203.16a Mortgagor and mortgagee requirement for maintaining flood insurance coverage.

(a) If the mortgage is to cover property improvements (dwelling and related structures/equipment essential to the value of the property and subject to flood damage) that:

(1) Are located in an area designated by the Federal Emergency Management Agency (FEMA) as a floodplain area having special flood hazards; or

(2) Are otherwise determined by the Commissioner to be subject to a flood hazard, and if flood insurance under the National Flood Insurance Program (NFIP) is available with respect to these property improvements, the mortgagor and mortgagee shall be obligated, by a special condition to be included in the mortgage commitment, to obtain and to maintain NFIP flood insurance coverage on the property improvements during such time as the mortgage is insured.

(b) No mortgage may be insured that covers property improvements located in an area that has been identified by FEMA as an area having special flood hazards, unless the community in which the area is situated is participating in the National Flood Insurance Program and such insurance is obtained by the mortgagor. Such requirement for flood insurance shall be effective one year after the date of notification by FEMA to the chief executive officer of a flood prone community that such community has been identified as having special flood hazards.

(c) The flood insurance must be maintained during such time as the mortgage is insured in an amount at least equal to either the outstanding balance of the mortgage, less estimated land costs, or the maximum amount of the NFIP insurance available with respect to the property improvements, whichever is less.

PART 234—CONDOMINIUM OWNER MORTGAGE INSURANCE

7. The authority citation for 24 CFR part 234 continues to read as follows:

Authority: 12 U.S.C. 1715b and 1715y; 42 U.S.C. 3535(d). Section 234.520(a)(2)(ii) is also issued under 12 U.S.C. 1707(a).

§ 234.1 [Amended]

8. In § 234.1(a), remove the words ''Mortgage insurance on proposed or new construction in a new subdivision'' and add, in their place, the words ''Mortgage insurance on proposed or new construction''.

Dated: March 29, 1999.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 99–10892 Filed 4–29–99; 8:45 am]

BILLING CODE 4210–27–P

Friday
April 30, 1999

Part V

Department of Housing and Urban Development

24 CFR Part 968
Comprehensive Improvement Assistance Program; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 968

[Docket No. FR–4462–P–01]

RIN 2577–AB97

Comprehensive Improvement Assistance Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the regulations for the Comprehensive Improvement Assistance Program (CIAP) to permit the non-competitive distribution of CIAP funds to all eligible public housing authorities (PHAs) based on two equally-weighted factors: a PHA's share of the total number of units eligible for CIAP; and a PHA's share of the total number of bedrooms in units eligible for CIAP (with studio units counted as one-bedroom units). The purpose of this amendment is to provide small PHAs the opportunity of a transition period to become familiar with a non-competitive, capital funding process in anticipation of formula funding in Federal Fiscal Year (FFY) 2000 under new statutory authority.

DATES: Comments due date: June 1, 1999.

ADDRESSES: Interested persons are invited to submit written comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address. Facsimile (FAX) comments will not be accepted.

FOR FURTHER INFORMATION CONTACT: William J. Flood, Director, Office of Capital Improvements, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4134, Washington, D.C. 20410. Telephone (202) 708–1640. (This is not a toll free number.) Persons with hearing or speech impediments may access this number via TTY by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

The Comprehensive Improvement Assistance Program (CIAP) is authorized under section 14 of the United States Housing Act of 1937 (1937 Act). CIAP provides modernization funds to public housing authorities (PHAs) that own or operate less than 250 units of public housing, to enable them to improve the physical condition and upgrade the management and operations of existing public housing developments to assure their continued availability for low-income families. In FFY 1999, a total of $2.895 billion is available for Modernization Programs (CIAP and Comprehensive Grant Program (CGP)), of which approximately $364 million will be available to CIAP PHAs. Modernization funds are allocated between CIAP and CGP PHAs based on the relative shares of backlog needs (weighted at 50%) and accrual needs (weighted at 50%), as determined by field inspections conducted for the HUD-funded Abt Associates study of modernization needs. This allocation results in CIAP PHAs receiving approximately 12.5% and CGP PHAs receiving approximately 87.5% of the total funds available. In previous years, an allocation of CIAP funds has been made for each Field Office based, in part, on the relative shares of backlog and accrual needs for CIAP PHAs. After the assignment of funds to Field Offices, CIAP funds were then distributed to PHAs pursuant to a competitive process, under which applications submitted to HUD were rated and ranked. Awards were then made in rank order to the extent that funds were available. Under this system of distribution, not every PHA that submitted an acceptable application was funded.

In lieu of the former distribution method, HUD proposes to continue to use the formula allocation for CIAP described in 24 CFR 968.103 (but not to assign CIAP funds to Field Offices and then distribute the CIAP funds to PHAs by a competitive method) and to amend the CIAP regulations to permit the distribution of funds after formula allocation to all eligible PHAs on a non-competitive basis. Section 519 of the Quality Housing and Work Responsibility Act of 1998 (Pub.L. 105–276, 112 Stat. 2461, approved October 21, 1998) (QHWRA), authorizes a new system of funding capital improvement needs for all PHAs, large and small, on a formula basis beginning in FFY 2000. The final year of CIAP funding will be FFY 1999. HUD will be working with housing industry and resident groups, and representatives of small, medium and large PHAs to develop, using the negotiated rulemaking process, an entirely new formula for capital funds distribution for all PHAs. Rather than have PHAs that own or operate less than 250 units continue to plan for and obtain capital funding on a competitive basis that will soon no longer be available, HUD wishes to provide these small PHAs the opportunity of a transition period in which funding is made available under a process that is closer to the formula-based capital program that will apply to all PHAs beginning in FFY 2000.

This rule would amend 24 CFR 968.210 to remove the provisions that require competitive funding and to add a provision that permits funding distributions on the basis described below. To initiate the distribution process, HUD will notify PHAs of their estimated dollar amount and the time frame for submission of the CIAP application and other pertinent information. Every eligible PHA (owning or operating less than 250 units) that responds to the notice would then receive a distribution based on two equally-weighted factors: (1) A PHA's share of the total number of units eligible for CIAP; and (2) a PHA's share of the total number of bedrooms in units eligible for CIAP (with studio units counted as one-bedroom units). HUD currently estimates that for a given PHA, each unit would receive between $1250 and $2250 per unit of CIAP funding under this proposed system, and that for most PHAs, the per unit funding will be between $1600 and $2000 per unit.

This proposed rule would also provide for the preferences under section 14(h) of the 1937 Act. Under section 14(h), preferences are given to small PHAs for projects having conditions which threaten the health or safety of the tenants (emergency modernization preference) or having a significant number of vacant, substandard units (vacancy preference), and that also have demonstrated modernization capability.

Under the competitive system of distributing CIAP funds, emergency modernization was funded as Group 1 during the competition or during the course of the year from the emergency reserve under 24 CFR 968.104. For the vacancy preference, HUD provided for extra points in the CIAP NOFAs to PHAs that demonstrated the high priority needs and modernization capability required for the vacancy preference.

The emergency modernization preference will be satisfied by processing all emergency modernization under existing procedures in 24 CFR 968.104. In addition, HUD will set-aside

from the CIAP distribution approximately $6.1 million for the East Texas housing authorities (those with less than 250 public housing units) involved in the *Young* v. *Cuomo* civil rights case, to meet the requirements of the settlement agreement, which is subject to judicial oversight.

Because CIAP funds would not be distributed competitively under this rule, the vacancy preference cannot be implemented by providing extra points. This rule applies the vacancy preference by providing an additional increment of funding to PHAs that have modernization capability and demonstrate that at least 25% of their units are vacant, substandard units (where vacancies are not due to insufficient demand). A PHA has modernization capability if it has previously received CIAP funding and meets the requirements of *Modernization capability* as defined at § 968.205. PHAs must apply for the vacancy preference incremental assistance as part of the CIAP application (to be provided by HUD under the notification required by 24 CFR 968.210(a)).

As an additional matter, this rule would make a technical correction to § 968.110(a), replacing a citation to ''section 503 of the Rehabilitation Act of 1973'' with ''section 504 of the Rehabilitation Act of 1973''.

II. Findings and Certifications

Justification for Shortened Comment Period

It is the general practice of the Department to provide a 60-day public comment period on all proposed rules. However, in order to provide a sufficient transition period for small PHAs to become familiar with working under a new statutory system of funding capital improvement needs on a formula basis rather than a competitive basis, the Department is shortening its usual 60-day public comment period to 30 days.

Paperwork Reduction Act Statement

The information collection requirements of the Comprehensive Improvement Assistance Program have been approved by the Office of Management and Budget under OMB Approval No. 2577–0044. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Environmental Impact

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.19(c)(2) of the HUD regulations, this rule amends an existing document, the regulations at 24 CFR part 968, which as a whole would not fall within an exclusion, but the amendment by itself would do so. Therefore, the actions proposed in this document are determined not to have the potential of having a significant impact on the quality of the human environment and further review under the National Environmental Policy Act is not necessary. A Finding of No Significant Impact (FONSI) is not required.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This proposed rule does not impose any Federal mandates on any State, local, or tribal governments or the private sector within the meaning of Unfunded Mandates Reform Act of 1995.

Executive Order 12866

The Office of Management and Budget (OMB) reviewed this proposed rule under executive Order 12866, *Regulatory Planning and Review*. OMB determined that this proposed rule is a ''significant regulatory action,'' as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). Any changes made to the proposed rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW, Washington, DC 20410–0500.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) (the RFA), has reviewed and approved this proposed rule and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. The rule would only modify the funding process for the final year of the CIAP to provide small PHAs with a transition period to become familiar with a non-competitive capital funding process. Small businesses are specifically invited, however, to comment on whether this rule will significantly affect them, and persons are invited to submit comments according to the instructions in the **DATES** and **COMMENTS** sections in the preamble of this proposed rule.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official for HUD under section 6(a) of Executive Order 12612, *Federalism*, has determined that this rule will not have federalism implications concerning the division of local, State, and Federal responsibilities. The rule would only modify the funding process for the final year of the CIAP to provide small PHAs with a transition period to become familiar with a non-competitive capital funding process.

Catalog of Domestic Assistance Numbers

The Catalog of Domestic Assistance numbers for the Comprehensive Improvement Assistance Program is 14.852.

List of Subjects in 24 CFR Part 968

Grant programs—housing and community development, Indians, Loan programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

Accordingly, 24 CFR part 968 is amended, as follows:

PART 968—PUBLIC HOUSING MODERNIZATION

1. The authority citation for 24 CFR part 968 continues to read as follows:

Authority: 42 U.S.C. 1437d, 1437l, and 3535(d).

2. In § 963.110, paragraph (a) is revised to read as follows:

§ 968.110 Other program requirements.

* * * * *

(a) *Nondiscrimination and equal opportunity.* The PHA shall comply with Title II of the Americans with Disabilities Act and 28 CFR part 35; section 504 of the Rehabilitation Act of 1973 and 41 CFR chapter 60–471; and the Architectural Barriers Act of 1968 (42 U.S.C. 4151–4157) and 24 CFR part 40.

* * * * *

3. Section 968.210 is revised to read as follows:

§ 968.210 Procedures for obtaining approval of a modernization program.

(a) *HUD notification.* After modernization funds for a particular FFY become available, HUD will notify PHAs of the time frame for submission of the CIAP application and other pertinent information.

(b) *Distribution of funding.* HUD will distribute the available funding under this subpart to every eligible PHA that

responds to the notice issued pursuant to paragraph (a) of this section based on two equally-weighted factors: A PHA's share of the total number of units eligible for CIAP; and a PHA's share of the total number of bedrooms in units eligible for CIAP (with studio units counted as one-bedroom units). HUD will also provide a vacancy preference, consisting of an additional increment of funding, to PHAs that have modernization capability and demonstrate that at least 25% of their units are vacant, substandard units (where vacancies are not due to insufficient demand). A PHA has modernization capability if it has previously received CIAP funding and meets the requirements of *Modernization capability* as defined at § 968.205.

(c) *ACC amendment.* HUD and the PHA shall enter into an ACC amendment in order for the PHA to draw down modernization funds. The ACC amendment shall require low-income use of the housing for not less than 20 years from the date of the ACC amendment (subject to sale of homeownership units in accordance with the terms of the ACC). The PHA Executive Director, where authorized by the Board of Commissioners and permitted by State law, may sign the ACC amendment on behalf of the PHA. HUD has the authority to condition an ACC amendment (e.g., to require a PHA to hire a modernization coordinator or contract administrator to administer its modernization program).

(d) *Declaration of trust.* As HUD may require, the PHA shall execute and file for record a Declaration of Trust, as provided under the ACC, to protect the rights and interests of HUD throughout the 20-year period during which the PHA is obligated to operate its developments in accordance with the ACC, the Act, and HUD regulations and requirements.

Dated: March 25, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 99–10464 Filed 4–29–99; 8:45 am]

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Friday
April 30, 1999

Part VI

Department of Housing and Urban Development

24 CFR Part 982
Section 8 Homeownership Program; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 982

[Docket No. FR–4427–P–01]

RIN 2577–AB90

Section 8 Homeownership Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends the regulations for the Section 8 tenant-based rental voucher program at 24 CFR part 982. These amendments implement Section 8(y) of the United States Housing Act of 1937, as amended by Section 555 of the Quality Housing and Work Responsibility Act of 1998. Section 8(y) authorizes a public housing agency to provide tenant-based assistance for an eligible family that purchases a dwelling unit that will be occupied by the family.

DATES: Comments due date: Comments on the proposed rule and the proposed information collection requirements are due on or before: June 29, 1999.

ADDRESSES: Interested persons are invited to submit written comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address. Facsimile (FAX) comments will not be accepted.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4220, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–0477 (this is not a toll-free number). Hearing or speech impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. General Description of Homeownership Option

This rule implements the ''homeownership option'' under Section 8(y) of the United States Housing Act of 1937 (42 U.S.C. 1437f(y)) (the ''1937 Act''). Section 8(y) authorizes Section 8 tenant-based assistance for an eligible family that occupies a home purchased and owned by members of the family. Although Section 8(y) was originally enacted by section 185 of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992; 106 Stat. 3672), Section 8 homeownership was never implemented because the program was unworkable without statutory change. Section 8(y) was amended by section 555 of the Quality Housing and Work Responsibility Act of 1998 (Pub. L. 105–276, approved October 21, 1998; 112 Stat. 2461).

This rule implements the section 8(y) homeownership option by adding a new ''special housing type'' under 24 CFR part 982, subpart M, of the unified rule for the Section 8 tenant-based voucher and certificate programs. Subpart M describes program requirements for variants from the basic Section 8 tenant-based rental assistance programs.

Homeownership assistance offers a new option for families that receive Section 8 tenant-based assistance. As for other special housing types, HUD does not provide any additional or separate funding for homeownership assistance under Section 8(y). If a Public Housing Agency (PHA) chooses to offer Section 8 tenant-based assistance under the new homeownership option, a qualified family may freely choose whether to request rental assistance or to instead request homeownership assistance.

An applicant admitted to the tenant-based programs may receive Section 8 voucher assistance to purchase, rather than rent, a home. A participant receiving Section 8 tenant-based rental assistance may purchase a home with continued assistance under the homeownership option.

In general, a PHA that administers Section 8 tenant-based assistance has the choice whether to offer homeownership assistance as an option for qualified applicants and participants in its agency's Section 8 tenant-based program. The PHA may choose to make homeownership assistance freely available for any qualified applicant or participant, or to restrict homeownership assistance to families or purposes defined by the agency. (The PHA is only required to offer homeownership assistance if needed as a reasonable accommodation for a family member who is a person with disabilities.)

As required by law, the homeownership option is not available for units receiving Section 8 project-based assistance. By law, homeownership assistance under Section 8(y) may only be provided for families receiving ''tenant-based assistance'' (42 U.S.C. 1437f(y)(1)).

In implementing the homeownership option, HUD wishes to strike a balance that expands homeownership opportunities, while minimizing defaults that negatively impact assisted homeowners and their neighborhoods. HUD hopes to improve on past homeownership programs by learning from prior errors and building upon the successful features of similar programs. HUD believes the regulatory proposals contained in this rule achieve these goals, and welcomes public comment on ways to improve the implementation of the Section 8 homeownership option.

II. Overview of How the Section 8 Homeownership Program Works

An overview of how the Section 8 homeownership program works follows. Additional detail will be provided elsewhere in the preamble and regulation text.

PHA administration of the Section 8 homeownership program differs from the tenant-based rental program in many ways. A PHA may use the certificate and voucher program funding already under Annual Contributions Contract (ACC) or new tenant-based Section 8 funding for rental or homeownership purposes. The PHA may opt to limit the number of Section 8 homeownership vouchers or not implement the homeownership option. There is no separate or additional funding for the homeownership program.

At the briefing of families selected to participate in the tenant-based Section 8 program, the PHA must discuss any homeownership option. Family participation in the homeownership program is voluntary. Although the homeownership program is open to both Section 8 applicants and participants, not every Section 8 tenant-based family may receive homeownership assistance. The PHA may limit the number of homeownership families and there are statutory family eligibility requirements such as a minimum level of non-welfare income and a history of full-time employment. (The employment history requirement is not applicable to elderly and disabled families, and there is a modified income requirement for elderly and disabled families.) The program is generally limited to first-time homeowners. The PHA may add other local eligibility requirements such as participation in the FSS program.

Once a family has been determined by the PHA to be eligible for Section 8 homeownership assistance, the family must attend homeownership counseling sessions. The counseling may be done by PHA staff or another entity such as

a HUD-approved housing counseling agency.

The PHA must advise the family of any deadlines on locating a home, securing financing, and purchasing the home. The PHA does not issue a certificate or voucher to the family. If the family is unable to locate a home to purchase within the PHA established deadlines, the PHA may issue the family a rental certificate or voucher.

The family is free to select an existing (not under construction) home of their choice located within the PHA jurisdiction. If the family qualifies for portability, the family may also select a home in the jurisdiction of another PHA, if the receiving PHA is approving units under the Section 8 homeownership option. The receiving PHA may absorb the family into their Section 8 program or bill the initial PHA for the housing assistance payments. The receiving PHA will arrange for any necessary counseling. The receiving PHA homeownership policies will apply to the portable family.

The home chosen by the family must pass an initial PHA Housing Quality Standards (HQS) inspection. (The HQS used for the Section 8 rental program is applicable to the homeownership program.) In addition, the family must hire an independent, professional home inspector to inspect the home selected by the family to identify physical defects and the condition of the major building systems and components. A copy of the independent inspection report must be given to the PHA. The family and the PHA must determine if any prepurchase repairs are necessary.

The family will enter into a contract of sale with the seller. The family must secure their own financing for the home purchase. There is no prohibition against using local or State Community Development Block Grant (CDBG) or other subsidized financing in conjunction with the Section 8 homeownership program. The PHA may prohibit certain forms of financing, require a minimum cash downpayment, or determine that the family cannot afford the proposed financing. (There are no Section 8 funds for home purchase financing. Instead, the Section 8 housing assistance will be provided monthly to help the family meet homeownership expenses.)

It is anticipated that mortgage lenders will consider the Section 8 assistance as a source of family income when underwriting the loan. If purchase of the home is financed with Federal Housing Administration (FHA)-insured mortgage financing, such financing is subject to FHA mortgage insurance credit underwriting requirements. If purchase of the home is financed (in whole or in part) without FHA-insured mortgage financing, the PHA must require that the underwriting procedures used by the lender comply with the basic mortgage insurance credit underwriting requirements for FHA-insured single family mortgage loans. The FHA single family underwriting standards are described in HUD Handbook 4155.1 (titled ''Mortgage Credit Analysis for Mortgage Insurance on One-to-Four Family Properties.'') HUD specifically invites public comment on whether the final rule should require the use of the FHA underwriting standards, or whether this requirement would unduly restrict the homeownership option.

Homeownership housing assistance payments may be made directly to the family or to lender on behalf of the family. (Two-party checks to the family and lender are not authorized because such a practice is incompatible with typical lending documents and practices.) Before the housing assistance begins, the family and the PHA must execute a ''statement of homeowner obligations.'' The Section 8 tenant-based housing assistance payments (HAP) contract, request for lease approval and lease addendum are not applicable to the Section 8 homeownership program.

The amount of the housing assistance payment will be calculated using a modified voucher program payment standard approach. The homeownership housing assistance payment will equal the lower of (1) the payment standard minus the total tenant payment or (2) the monthly homeownership expenses minus the total tenant payment. The family is responsible for the monthly homeownership expenses not reimbursed by the housing assistance payment. (Total tenant payment is higher of the minimum rent, 10 percent of monthly income, 30 percent of monthly adjusted income, or the welfare rent.) There is no shopping incentive in the homeownership option.

The PHA must use the utility allowance schedule and payment standard schedules applicable to the Section 8 voucher rental program.

After the homeownership housing assistance payments begin, the PHA will annually reexamine family income and composition and make appropriate adjustments to the amount of the monthly housing assistance payment. There is no requirement for the PHA to conduct an annual HQS inspection.

Except for elderly and disabled families, Section 8 homeownership assistance may only be paid for a maximum period of up to ten years. The PHA may establish a shorter maximum assistance term. Elderly and disabled families are exempt from subsidy time limits. HUD invites public comment on the reasonableness of the ten year limit on Section 8 homeownership assistance. Specifically, commenters are invited to submit their thoughts on whether HUD should lengthen or shorten the ten year limit proposed in this rule.

The head of household, and any spouse of the head of household, that has previously defaulted on a mortgage obtained through the homeownership option is barred from receiving future Section 8 homeownership assistance.

HUD specifically invites comments on whether, or under what conditions, a family that has defaulted on a mortgage securing debt to purchase a home under the homeownership option should be permitted to receive Section 8 rental assistance after the mortgage default. Such conditions may include requiring that the family be returned to the waiting list.

The PHA will earn the same administrative fees as in the tenant-based rental program. The administrative fee is earned for each month that homeownership assistance is paid.

A PHA opting to administer the Section 8 homeownership program must establish local homeownership policies. The following policies must be described in the PHA administrative plan: Any local eligibility criteria (§§ 982.626(b) and 982.627(a)(5)); any minimum income requirements (§ 982.627(b)); any minimum cash downpayment or equity requirements; any requirements for financing purchase of a home, including requirements concerning qualification of lenders (for example, prohibition of seller financing or case-by-case approval of seller financing), terms of financing (for example, a prohibition of balloon payment mortgages and establishment of a minimum homeowner equity requirement), and financing affordability (§ 982.631); the maximum homeownership assistance term (§ 982.633); PHA policy for payment of the HAP to the family or lender (§ 982.634(d); PHA policy about issuing the family a rental voucher if the family does not find a suitable house to buy, or defaults on the home mortgage loan (§§ 982.628(c) and 982.636); PHA maximum times to locate and purchase a home (§ 982.628); and any PHA requirements for continuation of homeownership assistance (§ 982.632(b)(7)).

III. Who Is Assisted

A. General

The homeownership option is used to assist families in two types of housing:

1. A unit owned by the family—One or more family members hold title to the home.

2. A cooperative unit—One or more family members hold membership shares in the cooperative.

B. Assistance for Homeowner

Before enactment of Section 8(y), Section 8 assistance could be paid on behalf of a renter or cooperative member, but not for a family that owns fee title to its home. Section 8 rental assistance terminates when the family takes title to the home. By contrast, Section 8(y) is specifically designed to authorize assistance for a ''homeowner''—a family that owns title to the home.

The law provides that the public housing agency may provide assistance for:

1. A ''first-time homeowner'';

2. A family that owns or is acquiring shares in a cooperative; and

3. ''Any other family, as the Secretary may prescribe.'' (In the law, this third, open-ended category is formally included in the definition of ''first-time homeowner.'')

By law and this rule, the homeownership option is designed to promote and support homeownership by a ''first-time'' homeowner—a family that moves for the first time from rental housing to a family-owned home. Section 8 payments supplement the family's own income to facilitate the transition from rental to homeownership. The initial availability of these assistance payments helps the family pay the costs of homeownership, and may provide additional assurance for a lender, so that the family can finance purchase of the home.

Section 8 homeownership assistance for cooperative homeowners is specifically authorized for both a family that is a first time cooperative homeowner and a family that owned their cooperative unit prior to receiving Section 8 assistance. Cooperative homeowners were eligible for tenant-based assistance prior to passage of the Quality Housing and Work Responsibility Act of 1998. Congress intends that cooperative homeowners continue to be eligible for tenant-based assistance regardless of their status as a first time homeowner.

To qualify as a ''first-time homeowner,'' the assisted family may not include any person who owned a ''present ownership interest'' in the residence of any family member in the last three years (regulatory definition at § 982.4; statutory definition at 42 U.S.C. 1437f(y)(7)(A)). Such interest includes ownership of title or of cooperative membership shares. The restriction to ''first-time'' homeowners is intended to direct homeownership assistance to ''new'' homeowners who may be unable to purchase a home without this assistance, but to discourage use of Section 8 subsidy on behalf of families who have achieved homeownership independently, without benefit of the Federal Section 8 subsidy. In addition, the head of household, and any spouse of the head of household, that has previously defaulted on a mortgage obtained through the homeownership option is barred from receiving future Section 8 homeownership assistance.

Under the law, HUD is authorized to permit Section 8 homeownership assistance for ''any other family'' as the Secretary may prescribe '' that is, for a family other than a first-time homebuyer. HUD requests comments concerning whether HUD should exercise the statutory authority to exempt any categories of families from the first-time homeowner requirement. For example, a possible exemption from the first-time homeowner eligibility requirement is a divorced spouse who does not currently own a home but had joint ownership of a home with their ex-spouse in the last three years.

C. Assistance for Cooperative Member

Section 8(y) authorizes homeownership assistance for a family that ''owns or is acquiring shares in a cooperative.'' Thus, the law allows assistance for a family that already owns cooperative shares before commencement of Section 8 homeownership assistance, not just for a family that acquires cooperative shares for the first time with the support of such assistance. In this respect, the law treats ownership of cooperative membership different from ownership of title to the home. In the latter case, the law authorizes assistance for a first time homeowner only (and for additional families only in circumstances prescribed by the Secretary). The rule specifies that cooperative membership shares may be purchased at or before commencement of homeownership assistance (see the definition of ''membership shares'' at § 982.4).

Before this rule, HUD has provided essentially the same Section 8 rental assistance for a cooperative member as for a family that chooses to rent a unit in conventional rental housing. Since the origin of the Section 8 program, the law has provided that with respect to members of a cooperative, ''rent'' means the charges under the occupancy agreements between the members and the cooperative (42 U.S.C. 1437f(f)(5)). Thus Section 8 assistance is paid to cover the difference between the cooperative occupancy charges and the income-based tenant rent.

Under the existing rules for the Section 8 tenant-based program, assistance for a family that chooses to reside in a cooperative is largely subject to the same rules and contractual requirements as for a family that chooses a rental housing unit. Under these existing rules, the cooperative occupancy agreement (between the family and the cooperative) is treated like the lease between the family and the owner in standard rental housing. The cooperative occupancy agreement must include the requirements of the standard program ''lease addendum,'' including requirements concerning lease term, grounds for eviction, and owner responsibility of unit maintenance. Cooperative carrying charges are treated like rent to owner (contract rent), and requirements including annual rent adjustments for units assisted in the certificate program are applicable.

In short, assistance for cooperative residents under the old rule is not designed from the ground up as a form of homeownership assistance. The old Section 8 requirements do not fit the normal structure of occupancy and responsibility in cooperative housing. In particular, while a cooperative member is normally responsible for maintenance of the individual unit, the Section 8 regulations and contracts provide that the ''owner'' '' including a cooperative—is largely responsible for unit maintenance.

The mismatch between Section 8 rental program requirements and normal cooperative procedures reduces availability of cooperative units for occupancy by Section 8 families. Cooperatives may be unable or unwilling to grant separate and special treatment for Section 8 families that does not apply to other cooperative members, for example, differences concerning the amount of cooperative carrying charges, procedures or grounds for termination of cooperative membership, or enforcement of member maintenance obligations. Cooperatives are accustomed to use standard forms of occupancy agreement and other legal documentation governing the rights of members and of the cooperative entity. The cooperatives may decline to accommodate modifications to meet requirements of the Section 8 program,

or to enter into a contract with the PHA (the HAP contract), as required for the normal Section 8 rental program.

In the future, the PHA may provide assistance for a cooperative member either under the new homeownership option or under the special procedures for cooperative housing within the Section 8 tenant-based rental program (§ 982.619). Each form of assistance is designated as a separate special housing type under the Section 8 voucher program. The PHA may elect to offer either or both of these forms of cooperative assistance in its voucher program, and to define the appropriate role of each available form of cooperative assistance in the local Section 8 program.

In the new homeownership option, Section 8 assistance is paid on behalf of a cooperative member, but there is no requirement that the cooperative enter into any agreement or any direct relationship with the PHA that provides Section 8 assistance for the cooperative member. The cooperative is not asked to modify any ordinary requirement for cooperative membership or occupancy, nor asked to modify any requirement concerning assessment or collection of the cooperative carrying charge, maintenance of the unit or sanctions for violation of cooperative requirements.

For clarity, in describing requirements for homeownership assistance to a cooperative member, the new rule supplements existing definitions. As in the past, the term ''cooperative'' refers to housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing (§ 982.4). The rule also adds the following two new definitions:

1. *Cooperative member.* A family of which one or more members owns membership shares in a cooperative.

2. *Membership shares.* Shares in a cooperative. By owning such cooperative shares, the share-owner has the right to reside in a particular apartment in the cooperative, and the right to participate in management of the housing.

The existing HUD rules for cooperative housing in the tenant-based rental program were codified in April 1998. These rules provide that a family may only receive assistance in a cooperative that has adopted requirements to maintain continued affordability for lower income families after transfer of a member's interest. This affordability requirement was based on a provision of the prior voucher law that was removed in the October 1998 statutory amendments. There is now no such statutory affordability requirement for Section 8 tenant-based assistance to cooperative residents—whether such assistance is provided under the rental assistance program or under the new Section 8(y) homeownership option—and there is no such requirement under this rule.

HUD believes that such a continuing affordability requirement would restrict housing choice of Section 8 families among available cooperative units. Such a requirement would also diminish a major advantage of homeownership—the incentive for an assisted family to maintain and improve the housing and to receive full value upon a future sale of the home. This rule removes the federal mandate for existing continuing affordability requirements for rental assistance in cooperative housing.

In addition, this rule modifies the allocation of maintenance responsibility between the cooperative and the family. In the regular rental assistance program, the owner is responsible for most maintenance of a unit. Under the old rule, this principle also applies to rental assistance for Section 8 cooperative housing. However, in a conventional cooperative, the member is generally responsible for maintenance of the individual apartment, and the cooperative entity is only responsible for maintenance of common areas and systems. The cooperative agreement defines the division of maintenance obligations between the member and the cooperative.

The existing regulation is amended by this rule to reflect the normal division of maintenance responsibility in cooperative housing for which rental (not homeownership) assistance is being provided (§ 982.619(d)(3)). The revised rule provides that the family is responsible for a breach of the HQS caused by failure to perform maintenance in accordance with the cooperative occupancy agreement between the family and the cooperative. The PHA must take prompt and vigorous action to enforce the family maintenance obligation, and may terminate assistance for failure to perform maintenance in accordance with the cooperative occupancy agreement (§ 982.619(d)(4)).

During the term of the HAP contract between the PHA and the cooperative, the unit and premises must be maintained in accordance with the Section 8 HQS. If the contract unit and premises are not properly maintained, the PHA may exercise all available remedies, regardless of whether the family or the owner is responsible for such breach of the HQS. PHA remedies for breach of the HQS include recovery of overpayments, suspension of housing assistance payments, abatement or other reduction of housing assistance payments, termination of housing assistance payments and termination of the HAP contract (§ 982.619(d)(1)).

In the new homeownership cooperative option under Section 8(y), there is no HAP contract (between the PHA and the cooperative as unit ''owner'') and no lease (between the cooperative and the family). The unit is only inspected before the commencement of assistance. There is no requirement that the family or cooperative assure that the unit continues to satisfy HQS during the continuation of assisted occupancy. Consequently, there is no need to specify any allocation of maintenance responsibility between the cooperative and the family.

D. Lease-Purchase Agreement

The law and rule explicitly permit Section 8 homeownership assistance for a family that purchases a home that the family previously occupied under a ''lease-purchase agreement''—generally a lease with option to purchase. Section 8(y) provides that the PHA may provide Section 8 homeownership assistance for an eligible family that purchases ''a unit under a lease-purchase agreement'' (42 U.S.C. 1437f(y)(1)).

Prior to enactment of the Quality Housing and Work Responsibility Act of 1998, a family that received Section 8 rental subsidy could exercise an option to purchase the unit under a lease-purchase agreement. However, there were problems in applying the rent reasonableness requirements and, as noted above, Section 8 rental subsidy terminated when the family took title to the home. Thus the prospective loss of subsidy discouraged the family from taking title, and moving from rental to homeownership. However, Section 8(y) now provides a vehicle for continuation of Section 8 assistance after the family takes title to the home.

To qualify as a first-time homeowner (as noted above) the family may not have owned title to a principal residence in the last three years. The rule specifies, however, that the right to purchase title under a lease-purchase agreement does not constitute a prohibited ''present ownership interest.'' A family that holds an option to purchase may exercise the option and receive assistance under the new homeownership option.

A new § 982.317 is added to describe the requirements for lease-purchase agreements. The housing assistance payment for a lease-purchase unit may

not exceed the amount that would be paid on behalf of the family if the rental unit was not subject to a lease-purchase agreement. Any ''homeownership premium'' included in the rent to the owner that would result in a higher subsidy amount than would otherwise be paid by the PHA must be absorbed by the family. ''Homeownership premium'' is defined as an increment of value attributable to the value of the lease-purchase right or agreement such as an extra monthly payment to accumulate a downpayment or reduce the purchase price. Families are permitted to pay an extra amount out-of-pocket to the owner for purchase related expenses.

Section 982.317 also provides that in determining whether the rent to owner for a unit subject to a lease-purchase agreement is a reasonable amount, any ''homeownership premium'' paid by the family to the owner must be excluded when the PHA determines rent reasonableness.

Lease-purchase agreements are considered rental, and all the normal tenant-based Section 8 rental rules are applicable. The family will be subject to the homeownership regulatory requirements at the time the family is ready to exercise the homeownership option under the lease-purchase agreement. At that point in time, the PHA will determine whether the family is eligible for Section 8 homeownership assistance (e.g., whether the family meets the income and employment thresholds and any other criteria established by the PHA). If determined eligible for a homeownership voucher, the family will then arrange for an independent home inspection, attend counseling sessions, and obtain financing. Homeownership assistance will begin when the family purchases the home and after all of the requirements of the homeownership option are met.

HUD requests comments on whether the family should be subject to any of the homeownership requirements prior to entering into a lease-purchase arrangement, instead of delaying the requirements until the family is ready to purchase the home.

IV. How To Qualify for Homeownership Assistance

A. General

To qualify for assistance under the homeownership option, a family must meet the general requirements for admission to the PHA's Section 8 tenant-based voucher program, and additional special requirements for homeownership assistance (§ 982.627). At commencement of homeownership assistance, the family must meet homeownership assistance requirements concerning:

1. Any PHA minimum income requirements;
2. Family employment;
3. Prior default on a mortgage securing debt to purchase a home under the homeownership option; and
4. Other initial requirements established by the PHA.

B. Minimum Income Requirement

To enter the Section 8 voucher program, a family must be income-eligible (i.e., below the maximum income cutoff). However, to qualify for the homeownership option in the voucher program, a PHA may require the family to demonstrate sufficient income to meet a minimum income standard, which is intended to assure that a family will have sufficient income to pay homeownership and other family expenses not covered by the Section 8 subsidy.

Section 8(y) provides that a family may not receive homeownership assistance unless the family demonstrates that gross monthly income is at least two times the voucher ''payment standard'' or an ''other amount'' established by the Secretary (Section 8(y)(1)(B), 42 U.S.C. 1437f(y)(1)(B)). The rule provides that the family must demonstrate that the head of household and spouse have qualified monthly income of not less than any amount established in the PHA administrative plan. (§ 982.627(b)(1)).

The law does not specify whether the minimum income requirement is only applied at initial qualification for commencement of homeownership assistance, or is also a continuing requirement that must be maintained so long as the family is receiving assistance under the homeownership option. (By contrast, the law explicitly provides that the statutory employment requirement only applies at the time the family initially receives homeownership assistance.) HUD has decided that any minimum income requirement will only be applied to determine initial qualification to purchase a particular home, not as a continuing requirement. This policy gives assurance to the family, and possibly to a potential mortgage lender, that the stream of homeownership assistance payments will not be disrupted because of a drop in family income. Any minimum income requirement will only apply again if the family purchases a subsequent home with Section 8 homeownership assistance.

The law provides that the income counted in meeting any minimum income requirement under the homeownership option must come from sources other than ''public assistance.'' Thus, PHAs may limit homeownership assistance to families with substantial non-welfare income available to pay housing and non-housing costs. However, the law provides that HUD may count public assistance in determining availability of voucher homeownership assistance for an elderly or disabled family (in which the household head or spouse is an elderly or disabled person). The rule defines the meaning of ''public assistance'' (§ 982.4), thereby identifying the types of income that may not be included in determining whether a family meets the homeownership minimum income standard.

The rule also clarifies that the requirement to disregard public assistance income (as defined in this proposed rule) only applies in determining whether a family has the minimum income to qualify for homeownership assistance. However, public assistance income is counted for other program purposes: in determining income-eligibility for admission to the voucher program, and in calculating the amount of the monthly homeownership assistance payment for a family assisted under the homeownership option (§ 982.627(b)(2)(ii)).

Under the law, HUD may permit PHAs to count public assistance income of an ''elderly family'' or a ''disabled family''—a family whose head or spouse is elderly or disabled (definitions of these terms are found in section 3(b)(3)(B) of the 1937 Act; 42 U.S.C. 1437a(b)(3)(B))—in determining whether a family has the minimum income to qualify for homeownership assistance. On consideration of this issue, and recognizing the special needs of such families, the rule requires that the PHA count public assistance of an elderly or disabled family in determining whether the family meets the minimum income requirement for homeownership assistance (§ 982.627(b)(2)). This requirement to count public assistance incomes in determining whether a family has the minimum income to qualify for homeownership assistance only applies, however, to families which satisfy the statutory definition of an elderly or disabled family. In particular, as required by the law, the requirement to count public assistance income does not apply in the case of a family that includes a disabled person other than the household head or spouse (and

where the household head or spouse are not elderly or disabled).

C. Family Employment

Section 8(y) provides that, except as provided by HUD, the family must be able to demonstrate, at the time that the family initially receives homeownership assistance, that one or more adult members of the family have achieved employment for the time period established by HUD (42 U.S.C. 1437f(y)(1)(B)).

The rule provides at § 982.627(c) that a family seeking homeownership assistance must demonstrate that the head of household or spouse is currently employed on a full-time basis, and have been continuously so employed during the year before commencement of homeownership assistance. The one-year employment requirement, coupled with any minimum income requirement as discussed above indicate that the family is a good candidate for homeownership (i.e., that the family has the economic resources to handle the responsibilities of homeownership). HUD is requiring consideration of the employment history of the head of household or spouse, rather that any adult family member, to ensure that this important requirement is applicable to the family members who will be executing the contract of sale and mortgage or loan documents.

Under the law, HUD has broad authority to allow exceptions to the statutory employment requirement. As in the case of any minimum income requirement, the rule provides that the employment requirement does not apply to an elderly or disabled family (§ 982.627(c)(2)). In addition, the rule provides that if a family other than an elderly or disabled family includes a person with disabilities, the PHA must grant exemption from the employment requirement if required as a reasonable accommodation for a disabled person under HUD rules.

D. Discussion of Other Requirements

1. Homeownership Counseling

Section 8(y) provides that a family that receives assistance under the homeownership option must participate in a homeownership and housing counseling program provided by the PHA (42 U.S.C. 1437f(y)(1)(D)). The rule provides that before commencement of homeownership assistance the family must attend and satisfactorily complete the pre-assistance counseling program required by the PHA (§ 982.629(a)).

The PHA pre-assistance counseling program must cover: Home maintenance, budgeting and money management, credit counseling, how to negotiate the purchase price of a home, how to get homeownership financing (including pros and cons of different types of financing), how to find a home (including information about homeownership opportunities, schools, and transportation) and advantages of purchasing and how to locate a home in an area that does not have a high concentration of low-income families (§ 982.629(b)).

The extent of counseling may be tailored to each family's needs. For example, neither a cooperative member or a family exercising a lease-purchase option need counseling on how to find a home.

The counseling may be provided by the PHA, another entity such as a HUD-approved housing counseling agency, or by both the PHA and another entity. HUD-approved housing counseling agencies provide free counseling. The HUD field office will provide the PHA with a list of the HUD-approved counseling agencies.

Experience with low-income homeownership programs has demonstrated that quality counseling is imperative for successful homeownership and prevention of mortgage defaults. In addition, counseling will assist families in making informed decisions when selecting the home they wish to purchase.

2. Financing Purchase of Home

Families selected to participate in the Section 8 homeownership program must secure their own financing. If the family applies for a mortgage or loan (including an FHA mortgage), all regular lender underwriting and property inspection requirements apply.

The rule provides that a PHA may establish requirements for financing purchase of a home to be assisted under the homeownership option (§ 982.631). If purchase of the home is financed (in whole or in part) without FHA-insured mortgage financing, the PHA must require that the underwriting procedures used by the lender comply with the basic mortgage insurance credit underwriting requirements for FHA-insured single family mortgage loans (HUD Handbook 4155.1).

All PHA financing or affordability requirements must be described in the PHA administrative plan.

The PHA may set requirements concerning qualifications of lenders and terms of financing. For example, a PHA may determine that mortgages with balloon payments and certain kinds of variable interest rate loans are not in the best interest of the family because it is unlikely the family could afford the payments in a couple of years. In addition, the PHA could opt to prohibit seller financing, or to only allow seller financing in cases when the seller is a nonprofit or the purchase price can be clearly supported by an independent appraisal. Another purpose of the PHA financing review would be to determine whether the monthly mortgage or loan payment is affordable after considering other family expenses. PHAs may wish to establish minimum initial equity requirements to ensure that the family has a personal financial stake in the home, thus helping to minimize mortgage loan defaults (for example, the PHA may require that the family use its own resources to make the entire initial downpayment, or a percentage of the initial downpayment).

Although PHAs have local discretion in approving the home purchase financing arrangement, PHAs are cautioned not to use this discretion in a way that restricts the use of viable financing resources and unfairly penalizes the homebuyer. It is noted that variable interest rate loans are now commonplace and homeowners often refinance to later secure a fixed rate or a lower monthly payment.

3. Home Inspections

Two kinds of physical inspections are required in the homeownership option (in addition to, and separate from, any lender required inspections): (a) an HQS inspection by the PHA and (b) an ''independent professional home inspection'' by an inspector that is used in the private market by homebuyers. (§ 982.630).

The PHA inspection is the normal initial HQS inspection conducted by the PHA for the tenant-based rental assistance program. This inspection will indicate the current physical condition of the unit and any repairs necessary to ensure that the unit is safe and otherwise habitable. The PHA HQS inspection does not include an assessment of the adequacy and life span of the major building components, building systems, appliances and other structural components.

The only difference between the HQS inspection requirements for the tenant-based rental and homeownership programs is that the PHA will not conduct annual inspections. The exemption from annual HQS homeownership inspections is authorized by the statute. The initial (prior to the commencement of housing assistance) HQS inspection is the only PHA inspection required for homeownership units during the entire

time the family is receiving Section 8 homeownership assistance.

The other inspection required by this proposed rule is a statutory requirement that is consistent with private real estate practice. The ''independent professional home inspection'' is conducted by a private market home inspector (not PHA staff) that is experienced and qualified to conduct prepurchase inspections for homebuyers. The purpose of the home inspection is the identification of home defects and an assessment of the adequacy and life span of the major building components, building systems, appliances and other structural components. The requirement for an inspection arranged by the buyer and satisfactory to the buyer is a typical contingency clause in contracts of sale. The section 8 family selects the home inspector and pays the home inspector's fees. (The source of funds for family payment of the home inspection may be a gift, family savings or an inheritance, or sources other than family savings.) A copy of the inspection report is provided to the family and the PHA.

Although the PHA may not require the family to use a particular inspector, the PHA may establish standards for qualification of the home inspector selected by the family. For example, the PHA may require the use of a home inspector certified by the American Society of Home Inspectors, or a similar national organization.

The PHA must review the home inspector's report to determine whether repairs are necessary prior to purchase, and to generally assess whether the purchase transaction makes sense in light of the overall condition of the home and the likely costs of repairs and capital expenditures. For example, the home inspector's report might reveal foundation instability, and a defective roof and heating system that needs immediate replacement at great cost. Confronted with these facts the PHA would discuss the inspection results with the family and decide whether to disapprove the unit for assistance under the homeownership option because of the major physical problems and substantial correction costs, or whether it is feasible to have the necessary repairs accomplished prior to sale.

HUD specifically requests comments on whether a separate HQS and home inspector inspection should be required for the Section 8 homeownership program.

4. Switching From Section 8 Homeownership Voucher Assistance to Rental Voucher Assistance, and Vice-Versa, After a Mortgage Default and at Other Times

There are a number of circumstances under which a family may switch between rental and homeownership assistance under the voucher program. Various scenarios are described below.

a. A Section 8 participant receiving certificate or voucher assistance may request a PHA operating a homeownership program to determine whether the family is eligible for Section 8 homeownership assistance. If the family is determined eligible for homeownership assistance, the PHA may authorize the family to search for a home to purchase. The family would continue to receive rental assistance until the family vacates the rental unit (consistent with the lease).

b. A Section 8 applicant selected from the PHA waiting list goes to the briefing and learns of the homeownership option. The PHA determines the family is eligible for homeownership and the family is given two months to find a home to purchase. At the end of the two months the PHA extends the search period for an additional month because the family has found a unit. However, the purchase never occurs due to problems qualifying for a loan. The family opts to rent an apartment and try homeownership at a later time after they have increased their savings. The PHA issues the family a rental voucher.

c. The family purchases a home under the Section 8 homeownership option. After several years the family decides that they prefer to live in a rental apartment. If there is no mortgage loan default and the family has met all obligations under the Section 8 program, the PHA may issue the family a rental voucher. If there is a default on an FHA mortgage (and assuming the family has met all the family obligations under the Section 8 program other than not causing a mortgage default), the PHA may exercise the PHA option to issue the family a rental voucher only if the family vacates the home and conveys the title in accordance with § 982.636(b)(3). If there is a non-FHA mortgage loan default, the PHA has discretion to issue the family a rental voucher or terminate assistance.

As noted above, HUD is considering establishing conditions on the ability of a family to receive Section 8 rental assistance after a mortgage default. HUD invites public comment on what types of restrictions and conditions may be appropriate. Any such conditions will be described in the final rule. HUD also requests comments on whether the incentives provided for rapid possession and title conveyance for homes with FHA mortgage defaults should be extended to all lenders including secondary market agencies.

5. Portability

Families that are determined eligible for homeownership assistance may exercise the homeownership option outside of the initial PHA's jurisdiction if the receiving PHA is administering a Section 8 homeownership program, and is accepting new families into the receiving PHA's homeownership program. See § 982.635.

The receiving PHA may absorb the homeownership family or bill the initial PHA for the homeownership housing assistance using the normal portability billing process. Communications between the initial and receiving PHA are necessary. As is the case for Section 8 rental portable families, all of the receiving PHA's administrative policies are applicable to the homeownership family. The family will be required to attend the briefing and counseling sessions required by the receiving PHA. The receiving PHA, not the initial PHA, will determine whether the financing for and the physical condition of the unit are acceptable.

6. Buying Another Home With Section 8 Assistance

A homeownership family may purchase another home with Section 8 assistance provided there is no mortgage loan default.

There are no Section 8 sale recapture provisions; the family may keep any profits or proceeds from the sale of the home (assuming there are no recapture provisions associated with the family's home financing). However, most of the homeownership requirements applicable to the first home purchase remain applicable to a subsequent purchase. For example, the family must once again meet the employment threshold. The necessity of any counseling will be determined by the PHA. An independent home inspection will be conducted and the PHA will determine the acceptability of the financing. The PHA established time limit for homeownership (10 years or less) applies to the cumulative time the family receives homeownership assistance. The only exception to eligibility requirements applicable to initial receipt of homeownership assistance is that the family need not meet the first-time homebuyer requirement. (See § 982.636(c).)

7. Applicability of the Section 8 Tenant-Based Certificate and Voucher Requirements to the Homeownership Option

Section 982.638 details the portions of the certificate and voucher regulations that apply to the homeownership special housing type. PHAs should carefully review this section of the regulations.

It is noted that all civil rights laws applicable to the Section 8 certificate and voucher programs are applicable to the homeownership program (see § 982.53 for a listing of the equal opportunity requirements applicable to the Section 8 tenant-based programs). PHAs must comply with all equal opportunity and nondiscrimination requirements imposed by contract or Federal law. In addition, PHAs are reminded that ''finders-keepers'' applies to homeownership assistance; PHAs may not steer families to particular units or neighborhoods. Further, as in the tenant-based rental voucher program, PHAs must provide assistance to expand housing opportunities. The PHA briefing for both rental and homeownership families must explain:

a. Where the family may lease or purchase a unit;

b. How portability works (if the family qualifies to lease or purchase a unit outside the PHA jurisdiction under portability procedures); and

c. The advantages of moving to an area that does not have a high concentration of poor families (if the family is currently living in a high poverty census tract within the jurisdiction of the PHA).

Further, if the family includes any person with disabilities, the PHA must take appropriate steps to ensure effective communication during the briefing in accordance with 24 CFR 8.6.

8. Link Between Section 8 Homeownership and the Family Self-Sufficiency (FSS) Program

PHAs may wish to link Section 8 homeownership with the FSS program. For example, participation in the FSS program could be a PHA eligibility requirement (see §§ 982.626(b) and 982.627(a)(5)). The PHA may also opt to incorporate the homeownership goal into the family's FSS contract of participation so any FSS escrow could be advanced for purchase of a home or home maintenance/improvement purposes. It is noted that FSS families must meet the homeownership income and employment thresholds.

9. PHA Determination of ''Homeownership Expense''

Section 982.634(c) details the expenses that the PHA will include when determining the family's homeownership expenses. The principal and interest amount is the debt service amount for the initial (original) mortgage debt, any mortgage insurance premium, and any refinancing of such debt. HUD requests comments on whether homeownership expense should exclude any ''owner cashout'' associated with refinancing of the original mortgage debt.

The utility allowance is the same utility allowance schedule as used in the rental certificate and voucher programs.

The PHA allowance for maintenance expenses is the amount the PHA thinks is appropriate for routine maintenance for a home. The PHA allowance for major repairs and replacements is the amount the PHA thinks is appropriate for a replacement ''reserve'' for a home. These two maintenance allowances should not be based on the condition of the home, similar to how utility allowances work. It is recommended that a PHA contact counseling agencies, local realtors and relevant national organizations for advice on the appropriate level for these local allowances. (Families are not required to put the amount set aside for these two maintenance allowances in the bank or in escrow. Further, it is not expected that the monthly amounts for these allowances will cover all maintenance and capital expenditures.) Comments are requested on suggested ways to determine the allowance for maintenance expenses and the allowance for major repairs and replacements.

V. Findings and Certifications

Paperwork Reduction Act

The homeownership option is a special housing type under 24 CFR part 982, subpart M, of the unified rule for the Section 8 tenant-based voucher and certificate program. The information collection requirements of the Section 8 rental certificate and voucher programs approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) are not increased by the implementation of this new special housing type. While the rule substitutes several variations to existing requirements under the normal Section 8 tenant-based program, the homeownership option does not increase the total reporting and recordkeeping burden resulting from the collection of information for the Section 8 certificate and voucher programs.

As noted earlier in this preamble, the PHA does not issue the family a rental voucher or certificate or execute a housing assistance payment contract with an owner of rental property on behalf of the family participating in the homeownership option. Instead, the family and PHA execute a statement of homeowner obligations. Under the homeownership option the family provides the PHA with a copy of the contract of sale rather than submitting a Request for Lease Approval and a copy of the proposed lease. The homeownership option does require an independent pre-purchase inspection in addition to the initial HQS inspection; however, this burden is off-set by the removal of the requirement that the unit be subsequently inspected no less than annually.

The OMB approval number for the Section 8 tenant-based assistance program is 2577–0169, which expires on April 30, 2001. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4223). The Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This proposed rule does not impose any Federal mandates on any State, local, or tribal governments or the private sector within the meaning of Unfunded Mandates Reform Act of 1995.

Executive Order 12866

The Office of Management and Budget (OMB) reviewed this proposed rule under executive Order 12866, *Regulatory Planning and Review*. OMB determined that this proposed rule is a ''significant regulatory action,'' as

defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). Any changes made to the proposed rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW, Washington, DC 20410–0500.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) (the RFA), has reviewed and approved this proposed rule and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. The reasons for HUD's determination are as follows:

(1) A Substantial Number of Small Entities Will Not Be Affected

The proposed rule is exclusively concerned with public housing agencies that administer tenant-based housing assistance under section 8 of the United States Housing Act of 1937. Specifically, the proposed rule will permit a public housing agency to provide Section 8 tenant-based assistance to an eligible family that purchases a dwelling unit that will be occupied by the family. Under the definition of ''Small governmental jurisdiction'' in section 601(5) of the RFA, the provisions of the RFA are applicable only to those few public housing agencies that are part of a political jurisdiction with a population of under 50,000 persons. The number of entities potentially affected by this rule is therefore not substantial

(1) No Significant Economic Impact

The proposed regulatory amendments will not change the amount of funding available under the Section 8 voucher program. Accordingly, the economic impact of this rule will not be significant, and it will not affect a substantial number of small entities.

Notwithstanding HUD's determination that this rule will not have a significant economic effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official for HUD under section 6(a) of Executive Order 12612, *Federalism*, has determined that this rule will not have federalism implications concerning the division of local, State, and Federal responsibilities. This proposed rule is exclusively concerned with the establishment of an alternative use of Section 8 rental voucher assistance. Specifically, the rule will authorize a public housing agency to provide tenant-based assistance for an eligible family that purchases a dwelling unit that will be occupied by the family. No programmatic or policy change will result from this rule that will affect the relationship between the Federal government and State and local governments.

Catalog of Domestic Assistance Numbers

The Catalog of Domestic Assistance numbers for the programs affected by this proposed rule are 14.146, 14.147, 14.850, 14.851, 14.852, and 15.141.

List of Subjects in 24 CFR Part 982

Grant programs—housing and community development, Housing, Rent subsidies, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, HUD proposes to amend 24 CFR parts 982 as follows:

PART 982—SECTION 8 TENANT-BASED ASSISTANCE: UNIFIED RULE FOR TENANT-BASED ASSISTANCE UNDER THE SECTION 8 VOUCHER PROGRAM

1. The authority citation for 24 CFR part 982 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

2. Amend § 982.4(b) as follows:

a. Revise the definitions of *Cooperative*, and *Special housing types*;

b. Remove the definition of *Mutual housing*; and

c. Add the definitions of *Cooperative member*, *Family*, *First-time homeowner*, *Home*, *Homeowner*, *Homeownership assistance*, *Homeownership expenses*, *Homeownership option*, *Interest in the home*, *Membership shares*, *Public assistance*, and *Statement of homeowner obligations* in alphabetical order.

§ 982.4 Definitions.

* * * * *

(b) * * *

Cooperative. Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing.

Cooperative member. A family of which one or more members owns membership shares in a cooperative.

* * * * *

Family. A person or group of persons, as determined by the PHA, approved to reside in a unit with assistance under the program. See discussion of family composition at § 982.201(c).

* * * * *

First-time homeowner. In the homeownership option: A family of which no member owned any present ownership interest in a principal residence of any family member during the three years before commencement of homeownership assistance for the family. ''Present ownership interest'' in a residence includes title, in whole or in part, to a residence, or ownership, in whole or in part, of membership shares in a cooperative. ''Present ownership interest'' in a residence does not include the right to purchase title to the residence under a lease-purchase agreement.

* * * * *

Home. In the homeownership option: A dwelling unit for which the PHA pays homeownership assistance.

Homeowner. In the homeownership option: A family of which one or more members owns title to the home.

Homeownership assistance. In the homeownership option: Monthly homeownership assistance payments by the PHA. Homeownership assistance payment may be paid to the family, or to a mortgage lender on behalf of the family.

Homeownership expenses. In the homeownership option: A family's allowable monthly expenses for the home, as determined by the PHA in accordance with HUD requirements (see § 982.634).

Homeownership option. Assistance for a homeowner or cooperative member under § 982.625 to § 982.638. A special housing type.

* * * * *

Interest in the home. In the homeownership option (see § 982.632(b)(3)):

(1) In the case of assistance for a homeowner, ''interest in the home'' includes title to the home, any lease or other right to occupy the home, or any other present interest in the home.

(2) In the case of assistance for a cooperative member, ''interest in the home'' includes ownership of membership shares in the cooperative, any lease or other right to occupy the home, or any other present interest in the home.

* * * * *

Membership shares. In the homeownership option: shares in a cooperative. By owning such cooperative shares, the share-owner has the right to reside in a particular apartment in the cooperative, and the right to participate in management of the housing.

* * * * *

Public assistance. In the homeownership option (see § 982.627(b)): Income assistance from Federal, state or local welfare programs. Public assistance includes: Federal housing assistance or the housing component of a welfare grant; assistance under Temporary Assistance for Needy Families (TANF); Supplemental Security Income (SSI) that is subject to an income eligibility test; food stamps; general assistance or other assistance provided under a Federal, state or local program that provides assistance available to meet Family living or housing expenses.

* * * * *

Special housing types. See subpart M of this part 982. Subpart M of this part states the special regulatory requirements for: SRO housing, congregate housing, group home, shared housing, manufactured home (including manufactured home space rental), cooperative housing (rental assistance for cooperative member) and homeownership option (homeownership assistance for cooperative member or first-time homeowner).

Statement of homeowner obligations. In the homeownership option: The family's agreement to comply with program obligations.

* * * * *

3. Add § 982.305(b)(4) to read as follows:

§ 982.305 PHA approval to lease a unit.

* * * * *

(b) * * *

(4) In the case of a unit subject to a lease-purchase agreement, the PHA must provide written notice to the family of the environmental requirements that must be met before commencing homeownership assistance for the family (see § 982.626(c)).

* * * * *

4. Add § 982.317 to read as follows:

§ 982.317 Lease-purchase agreements.

(a) A family leasing a unit with assistance under the program may enter into an agreement with an owner to purchase the unit. So long as the family is receiving such rental assistance, all requirements applicable to families otherwise leasing units under the tenant-based program apply. Any homeownership premium (e.g., increment of value attributable to the value of the lease-purchase right or agreement such as an extra monthly payment to accumulate a downpayment or reduce the purchase price) included in the rent to the owner that would result in a higher subsidy amount than would otherwise be paid by the PHA must be absorbed by the family.

(b) In determining whether the rent to owner for a unit subject to a lease-purchase agreement is a reasonable amount in accordance with § 982.503, any homeownership premium paid by the family to the owner must be excluded when the PHA determines rent reasonableness.

5. Revise 982.352(a)(6) to read as follows:

§ 982.352 Eligible housing.

(a) * * *

(6) A unit occupied by its owner or by a person with any interest in the unit.

* * * * *

Subpart M—Special Housing Types

6. Amend § 982.601 as follows:

a. Revise paragraphs (a), (b)(1), and (b)(2);

b. Redesignate paragraphs (c) and (d) as paragraphs (d) and (e) respectively; and

c. Add new paragraph (c).

§ 982.601 Overview.

(a) *Special housing types.* This subpart describes program requirements for special housing types. The following are the special housing types:

(1) Single room occupancy (SRO) housing;

(2) Congregate housing;

(3) Group home;

(4) Shared housing;

(5) Manufactured home;

(6) Cooperative housing (excluding families that are not cooperative members); and

(7) Homeownership option.

(b) *PHA choice to offer special housing type.* (1) The PHA may permit a family to use any of the following special housing types in accordance with requirements of the program: single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home when the family owns the home and leases the manufactured home space, cooperative housing or homeownership option.

(2) In general, the PHA is not required to permit families (including families that move into the PHA program under portability procedures) to use any of these special housing types, and may limit the number of families using special housing types.

* * * * *

(c) *Program funding for special housing types.* HUD does not provide any additional or designated funding for special housing types, or for a specific special housing type (e.g, the homeownership option). Assistance for special housing types is paid from program funding available for the PHA's tenant-based program under the consolidated annual contributions contract.

* * * * *

7. Amend § 982.619 as follows:

a. Revise paragraph (a);

b. Redesignate paragraph (d) as paragraph (e); and

c. Add new paragraph (d).

§ 982.619 Cooperative housing.

(a) *Assistance in cooperative housing.* This section applies to rental assistance for a cooperative member residing in cooperative housing. However, this section does not apply to:

(1) Assistance for a cooperative member under the homeownership option pursuant to § 982.625 through § 982.638; or

(2) Rental assistance for a family that leases a cooperative housing unit from a cooperative member (such rental assistance is not a special housing type, and is subject to requirements in other subparts of this part 982).

* * * * *

(d) *Maintenance.* (1) During the term of the HAP contract between the PHA and the cooperative, the dwelling unit and premises must be maintained in accordance with the HQS. If the dwelling unit and premises are not maintained in accordance with the HQS, the PHA may exercise all available remedies, regardless of whether the family or the cooperative is responsible for such breach of the HQS. PHA remedies for breach of the HQS include recovery of overpayments, abatement or other reduction of housing assistance payments, termination of housing assistance payments and termination of the HAP contract.

(2) The PHA may not make any housing assistance payments if the contract unit does not meet the HQS, unless any defect is corrected within the period specified by the PHA and the PHA verifies the correction. If a defect is life-threatening, the defect must be corrected within no more than 24 hours. For other defects, the defect must be corrected within the period specified by the PHA.

(3) The family is responsible for a breach of the HQS that is caused by any of the following:

(i) The family fails to perform any maintenance for which the family is responsible in accordance with the terms of the cooperative occupancy agreement between the cooperative member and the cooperative;

(ii) The family fails to pay for any utilities that the cooperative is not required to pay for, but which are to be paid by the cooperative member;

(iii) The family fails to provide and maintain any appliances that the cooperative is not required to provide, but which are to be provided by the cooperative member; or

(iv) Any member of the household or guest damages the dwelling unit or premises (damages beyond ordinary wear and tear).

(4) If the family has caused a breach of the HQS for which the family is responsible, the PHA must take prompt and vigorous action to enforce such family obligations. The PHA may terminate assistance for violation of family obligations in accordance with § 982.552.

(5) Section 982.404 does not apply to assistance for cooperative housing under this section.

* * * * *

8. Add §§ 982.625 through 982.638 under a new undesignated heading ''Homeownership Option'' to read as follows:

Homeownership Option

982.625 Homeownership option: General.
982.626 Homeownership option: Initial requirements.
982.627 Homeownership option: Homeownership option: How to qualify for homeownership assistance.
982.628 Homeownership option: Additional PHA requirements for family search and purchase.
982.629 Homeownership option: Homeownership counseling.
982.630 Homeownership option: Home inspections and contract of sale.
982.631 Homeownership option: Financing purchase of home; affordability of purchase.
982.632 Homeownership option: Continued assistance requirements; Family obligations.
982.633 Homeownership option: Maximum term of homeownership assistance.
982.634 Homeownership option: Amount and distribution of monthly homeownership assistance payment.
982.635 Homeownership option: Portability.
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Homeownership Option

§ 982.625 Homeownership option: General.

(a) The homeownership option is used to assist a family residing in an existing home purchased and owned by one or more members of the family. The assisted family must be:

(1) A first-time homeowner; or

(2) A cooperative member.

(b) A family assisted under the homeownership option may be a newly admitted or existing participant in the program.

(c) The PHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and useable by persons with disabilities in accordance with 24 CFR part 8. (See § 982.316 concerning occupancy by a live-in aide.)

§ 982.626 Homeownership option: Initial requirements.

(a) *List of Federal requirements.* Before commencing homeownership assistance for a family, the PHA must determine that all of the following initial requirements have been satisfied:

(1) The family is qualified to receive homeownership assistance (see § 982.627).

(2) The family has satisfactorily completed the PHA program of required pre-assistance homeownership counseling (see § 982.629).

(3) The unit is eligible. (See § 982.352. Paragraphs (a)(6), (a)(7) and (b) of § 982.352 do not apply.)

(4) The unit has been inspected by a PHA inspector and by an independent inspector designated by the family (see § 982.630).

(5) The unit satisfies the HQS (see § 982.401 and § 982.630).

(6) The family is a first-time homeowner or cooperative member (see definitions of these terms at § 982.4) and neither the head of household or spouse has defaulted on a mortgage obtained through the homeownership option.

(7) Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, the family has entered a contract of sale in accordance with § 982.630(c).

(8) In the case of assistance for a cooperative member, the cooperative membership shares may be acquired at or before commencement of homeownership assistance.

(b) *Additional PHA requirements.* The PHA may prescribe additional initial requirements for commencement of homeownership assistance for a family. Any such additional requirements must be described in the PHA administrative plan.

(c) *Environmental requirements.* The PHA is responsible for complying with the authorities listed in 24 CFR 58.6 requiring the purchaser to obtain and maintain flood insurance for units in special flood hazard areas, prohibiting assistance for acquiring units in the coastal barriers resource system, and requiring notification to purchaser of units in airport runway clear zones and airfield clear zones.

(d) *PHA disapproval of seller.* The PHA may not commence homeownership assistance for occupancy of a home if the PHA has been informed (by HUD or otherwise) that the seller of the home is debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.

§ 982.627 Homeownership option: How to qualify for homeownership assistance.

(a) *Determination whether family is qualified.* The PHA may not provide homeownership assistance for a family unless the PHA determines that the family satisfies all of the following initial requirements at commencement of homeownership assistance for the family:

(1) At admission to the voucher program, the family is eligible for assistance (determined in accordance with § 982.201).

(2) The family satisfies any minimum income requirement (described in paragraph (b) of this section).

(3) The family satisfies the employment requirements (described in paragraph (c) of this section).

(4) The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option (see paragraph (d) of this section).

(5) The family also satisfies any other initial requirements established by the PHA. Any such additional requirements must be described in the PHA administrative plan.

(b) *Minimum income requirements.* (1) At commencement of homeownership assistance for the family, the family must demonstrate that the head of household and spouse have qualified monthly income (gross income), as determined in accordance with § 5.609, that is not less than any minimum amount established by the PHA in accordance with the administrative plan.

(2)(i) Except in the case of an elderly family or a disabled family (see the definitions of these terms at 24 CFR 5.403(b)), the PHA shall not count any public assistance received by the family in determining qualified monthly income under this section.

(ii) The disregard of public assistance income under paragraph (b)(2)(i) of this section only affects the determination of minimum monthly income used to determine if a family initially qualifies for commencement of homeownership assistance in accordance with this section, but does not affect:

(A) The determination of income-eligibility for admission to the voucher program;

(B) Calculation of the amount of the family's total tenant payment (gross family contribution); or

(C) Calculation of the amount of homeownership assistance payments on behalf of the family.

(iii) In the case of an elderly family or a disabled family, the PHA shall count public assistance in determining qualified monthly income.

(c) *Employment requirements.* (1) Except as provided in paragraph (c)(2) of this section, the family must demonstrate that the head of household or spouse is currently employed on a full-time basis, and has been continuously so employed during the year before commencement of homeownership assistance for the family.

(2) The employment requirement in paragraph (c)(1) of this section does not apply to an elderly family or a disabled family (see the definitions of these terms at 24 CFR 5.403(b)). Furthermore, if a family, other than an elderly family or a disabled family, includes a person with disabilities, the PHA shall grant an exemption from the employment requirement if the PHA determines that an exemption is needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities in accordance with 24 CFR part 8.

(d) *Prohibition against mortgage defaults.* The PHA shall not commence homeownership assistance for a family if the head of household or spouse has previously received assistance under the homeownership option, and has defaulted on a mortgage securing debt incurred to purchase the home.

§ 982.628 Homeownership option: Additional PHA requirements for family search and purchase.

(a) The PHA may establish the maximum time for a family to locate a home to purchase, and to purchase the home.

(b) The PHA may require periodic family reports on the family's progress made to purchase in finding and purchasing a home.

(c) If the family is unable to purchase a home within the maximum time established by the PHA, the PHA may issue the family a voucher to lease a unit or place the family's name on the waiting list for a voucher.

§ 982.629 Homeownership option: Homeownership counseling.

(a) Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete the pre-assistance homeownership and housing counseling program required by the PHA (pre-assistance counseling).

(b) The PHA pre-assistance counseling program must cover these subjects:

(1) Home maintenance (including care of the grounds);

(2) Budgeting and money management;

(3) Credit counseling;

(4) How to negotiate the purchase price of a home;

(5) How to obtain homeownership financing and loan preapprovals, including a description of types of financing that may be available, and the pros and cons of different types of financing;

(6) How to find a home, including information about homeownership opportunities, schools, and transportation in the PHA jurisdiction.

(7) Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas.

(c) The PHA may adapt pre-assistance counseling for a family to the family's needs.

(d) The PHA may also offer additional counseling after commencement of homeownership assistance (ongoing counseling). If the PHA offers a program of ongoing counseling for participants in the homeownership option, the PHA shall have discretion to determine whether the family is required to participate in the ongoing counseling.

§ 982.630 Homeownership option: Home inspections and contract of sale.

(a) *HQS inspection by PHA.* The PHA may not commence homeownership assistance for a family until the PHA has inspected the unit and has determined that the unit passes HQS.

(b) *Independent inspection.* (1) The unit must also be inspected by an independent professional inspector selected by and paid by the family.

(2) The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components.

(3) The PHA may not require the family to use an independent inspector selected by the PHA. The independent inspector may not be a PHA employee or contractor,or other person under control of the PHA. However, the PHA may establish standards for qualification of inspectors selected by families under the homeownership option.

(4) The independent inspector must provide a copy of the inspection report both to the family and to the PHA. The PHA may not commence homeownership assistance for the family until the PHA has reviewed the inspection report of the independent inspector. Even if the unit otherwise complies with the HQS (and may qualify for assistance under the PHA's tenant-based rental voucher program), the PHA shall have discretion to disapprove the unit for assistance under the homeownership option because of information in the inspection report.

(c) *Contract of sale.* (1) Before commencement of homeownership assistance, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give the PHA a copy of the contract of sale (see also § 982.626(a)(7)).

(2) The contract of sale must specify:

(i) The price and other terms of sale by the seller to the purchaser.

(ii) That the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser.

(iii) That the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser.

(iv) That the purchaser is not obligated to pay for any necessary repairs.

§ 982.631 Homeownership option: Financing purchase of home; affordability of purchase.

(a) The PHA may establish requirements for financing purchase of a home to be assisted under the homeownership option. Such PHA requirements may include requirements concerning qualification of lenders (for example, prohibition of seller financing or case-by-case approval of seller financing), or concerning terms of financing (for example, a prohibition of balloon payment mortgages, or establishment of a minimum homeowner equity requirement from personal resources).

(b) If purchase of the home is financed with FHA-insured mortgage financing, such financing is subject to FHA mortgage insurance credit underwriting requirements. If purchase of the home is

financed (in whole or in part) without FHA-insured mortgage financing, the PHA must require that the underwriting procedures used by the lender comply with the basic mortgage insurance credit underwriting requirements for FHA-insured single family mortgage loans.

(c) The PHA may disapprove proposed financing if the PHA determines that the debt for purchase of the home is unaffordable. In making this determination, the PHA may take into account other family expenses, such as child care, unreimbursed medical expenses, homeownership expenses, and other family expenses as determined by the PHA.

(d) All PHA financing or affordability requirements must be described in the PHA administrative plan.

§ 982.632 Homeownership option: Continued assistance requirements; Family obligations.

(a) *Occupancy of home.* Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, the PHA may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to the PHA the homeownership assistance for the month when the family moves out.

(b) *Family obligations.* To continue to receive homeownership assistance, a family must comply with the following family obligations:

(1) *Ongoing counseling.* To the extent required by the PHA, the family must attend and complete ongoing homeownership and housing counseling.

(2) *Compliance with mortgage.* The family must comply with the terms of any mortgage securing debt incurred to purchase the home, and any refinancing of such debt.

(3) *Prohibition against conveyance or transfer of home.* (i) So long as the family is receiving homeownership assistance, use and occupancy of the home is subject to § 982.551(h) and (i). The family may not sell, convey or transfer any interest in the home to any entity or person other than a member of the assisted family residing in the home.

(ii) In the case of assistance for a homeowner, the family may grant a mortgage on the home for debt incurred to finance purchase of the home or any refinancing of such debt.

(iii) Upon death of a family member who holds, in whole or in part, title to the home or ownership of cooperative membership shares for the home, homeownership assistance may continue pending settlement of the decedent's estate, notwithstanding transfer of title by operation of law to the decedent's executor or legal representative, so long as the home is solely occupied by remaining family members in accordance with § 982.551(h).

(4) *Supplying required information.* (i) The family must supply required information to the PHA in accordance with § 982.551(b).

(ii) In addition to other required information, the family must supply any information as required by the PHA or HUD concerning:

(A) Any mortgage or other debt incurred to purchase the home, and any refinancing of such debt (including information needed to determine whether the family has defaulted on the debt, and the nature of any such default), and information on any satisfaction or payment of the mortgage debt;

(B) Any sale or other transfer of any interest in the home; or

(C) The family's homeownership expenses.

(5) *Notice of move-out.* The family must notify the PHA before the family moves out of the home.

(6) *Notice of mortgage default.* The family must notify the PHA if the family defaults on a mortgage securing any debt incurred to purchase the home.

(7) *Additional PHA requirements.* The PHA may establish additional requirements for continuation of homeownership assistance for the family. The family must comply with any such requirements.

(8) *Other family obligations.* The family must comply with the obligations of a participant family described in § 982.551. However, the following provisions do not apply to assistance under the homeownership option: § 982.551(c), (d), (e), (f), (g) and (j).

(c) *Statement of homeowner obligations.* Before commencement of homeownership assistance, the family must execute a statement of family obligations in the form prescribed by HUD. In the statement, the family agrees to comply with all family obligations under the homeownership option.

§ 982.633 Homeownership option: Maximum term of homeownership assistance.

(a) Except in the case of an elderly family or a disabled family, the family shall not receive assistance under the homeownership option for more than ten years in total. If the family has received such assistance for different homes, or from different PHAs, the total of such assistance terms is subject to the ten year maximum.

(b) At any time, the PHA may establish a shorter maximum term.

§ 982.634 Homeownership option: Amount and distribution of monthly homeownership assistance payment.

(a) *Amount of monthly homeownership assistance payment.* While the family is residing in the home, the PHA shall pay a monthly homeownership assistance payment on behalf of the family that is equal to the *lower* of:

(1) The payment standard minus the total tenant payment; or

(2) The family's monthly homeownership expenses minus the total tenant payment.

(b) *Payment standard for family.* (1) The payment standard for a family is the lower of:

(i) The payment standard for the family unit size; or

(ii) The payment standard for the size of the home.

(2) If the home is located in an exception rent area, the PHA must use the appropriate payment standard for the exception rent area.

(3) The payment standard for a family is the greater of:

(i) The payment standard (as determined in accordance with paragraphs (b)(1) and (b)(2) of this section) at the commencement of homeownership assistance for occupancy of the home; or

(ii) The payment standard (as determined in accordance with paragraphs (b)(1) and (b)(2) of this section) at the most recent regular reexamination of family income and composition since the commencement of homeownership assistance for occupancy of the home.

(4) The PHA may not establish a separate payment standard for assistance under the homeownership option. The PHA must use the payment standards on the PHA payment standard schedule established pursuant to § 982.505.

(c) *Determination of homeownership expenses.* (1) The PHA shall adopt policies for determining the amount of homeownership expenses to be allowed by the PHA in accordance with HUD requirements.

(2) Homeownership expenses for a homeowner may only include amounts allowed by the PHA to cover:

(i) Principal and interest on initial mortgage debt and any mortgage insurance premium incurred to finance purchase of the home and any refinancing of such debt;

(ii) Real estate taxes and public assessments on the home;

(iii) Home insurance;

(iv) The PHA allowance for maintenance expenses;
(v) The PHA allowance for costs of major repairs and replacements;
(vi) The PHA utility allowance for the home; and
(vii) Principal and interest on mortgage debt incurred to finance major repairs, replacements or improvements for the home.
(3) Homeownership expenses for a cooperative member may only include amounts allowed by the PHA to cover:
(i) The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;
(ii) Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt or other mortgage debt;
(iii) Home insurance;
(iv) The PHA allowance for maintenance expenses;
(v) The PHA allowance for costs of major repairs and replacements;
(vi) The PHA utility allowance for the home; and
(vii) Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home.
(d) *Payment to lender or family.* The PHA must pay homeownership assistance payments either directly to the family or, at the discretion of the PHA, to a lender on behalf of the family.
(e) *Automatic termination of homeownership assistance.* Homeownership assistance terminates automatically 180 calendar days after the last homeownership assistance payment on behalf of the family.

§ 982.635 Homeownership option: Portability.

A family may qualify to move outside the initial PHA jurisdiction with continued assistance under the voucher program in accordance with portability procedures in § 982.353 and § 982.355. However, § 982.354 is not applicable. Such continued assistance under portability procedures is subject to § 982.636.

§ 982.636 Homeownership option: Move with continued tenant-based assistance.

(a) *Move to new unit.* A family receiving homeownership assistance may move to a new unit with continued tenant-based assistance in accordance with this section. The family may move either with voucher rental assistance (in accordance with rental assistance program requirements) or with voucher homeownership assistance (in accordance with homeownership option program requirements).

(b) *When PHA may deny permission to move with continued assistance*—(1) *Lack of sufficient funding.* The PHA may deny permission to move with continued voucher assistance if the PHA does not have sufficient funding to provide continued assistance.
(2) *Termination of assistance.* At any time, the PHA may deny permission to move with continued voucher assistance in accordance with § 982.552 (grounds for denial or termination of assistance), including termination of assistance for violation of any family obligations described in § 982.632.
(3) *Default on FHA-insured mortgage.* If the family defaults on an FHA-insured mortgage, the PHA may deny the family permission to receive rental assistance, in accordance with the policies contained in the PHA administrative plan. Further, in the event of a default on an FHA-insured mortgage, the PHA must deny the family permission to move with continued voucher assistance unless the family demonstrates that:
(i) The family has conveyed title to the home, as required by HUD, to HUD or HUD's designee, and
(ii) The family has moved from the home within the period established or approved by HUD.
(c) *Continued homeownership assistance.* For each move to a new unit with continued voucher assistance under the homeownership option, the PHA must determine that all initial requirements listed in § 982.626 have been satisfied. However, the following requirements do not apply:
(1) The requirement for pre-assistance counseling (§ 982.626(a)(2) and § 982.629) is not applicable. However, the PHA may require that the family complete additional counseling (before or after moving to a new unit with continued assistance under the homeownership option).
(2) In the case of assistance for a homeowner, the requirement that a family must be a first-time homeowner (§ 982.625 and § 982.626) is not applicable.

§ 982.637 Homeownership option: Administrative fees.

The ongoing administrative fee described in § 982.152(b) is paid to the PHA for each month that homeownership assistance is paid by the PHA on behalf of the family.

§ 982.638 Homeownership option: Applicability of other requirements.

(a) *General.* The following types of provisions (located in other subparts of this part 982) do not apply to assistance under the homeownership option:
(1) Any provisions concerning the Section 8 owner or the HAP contract between the PHA and owner;
(2) Any provisions concerning the assisted tenancy or the lease between the family and the owner;
(3) Any provisions concerning PHA approval to lease a unit;
(4) Any provisions concerning rent to owner or reasonable rent; and
(5) Any provisions concerning the issuance or term of a certificate or voucher.
(b) *Subpart G requirements.* The following provisions of this part 982, subpart G do not apply to assistance under the homeownership option:
(1) Section 982.302 (Issuance of certificate or voucher);
(2) Section 982.303 (Term of certificate or voucher);
(3) Section 982.305 (PHA approval to lease);
(4) Section 982.306 (PHA disapproval of owner);
(5) Section 982.307 (Owner screening of tenants);
(6) Section 982.308 (Leases);
(7) Section 982.309 (Term of tenancy);
(8) Section 982.310 (Owner termination of tenancy);
(9) Section 982.311 (When assistance is paid) (except that § 982.311(c)(3) is applicable to assistance under the homeownership option);
(10) Section 982.313 (Security deposit); and
(11) Section 982.314 (Move with continued tenant-based assistance) (except that § 982.314(c) and (d)(2) are applicable).
(c) *Subpart H requirements.* The following provisions of this part 982, subpart H do not apply to assistance under the homeownership option:
(1) Section 982.352(a)(6) (Prohibition of owner-occupied assisted unit);
(2) Section 982.352(b) (PHA owned housing);
(3) Sections 982.353(b)(1), (2), and (3) (Where family can lease a unit); and
(4) Section 982.354 (Administration by initial PHA under portability).
(d) *Subpart I requirements.* The following provisions of this part 982, subpart I do not apply to assistance under the homeownership option:
(1) Section 982.403 (Unit too big or small);
(2) Section 982.404 (Responsibility for maintenance during assisted occupancy); and
(3) Section 982.405 (PHA periodic unit inspection).
(e) *Subpart J requirements.* The requirements of this part 982, subpart J (Housing Assistance Payments Contract and Owner Responsibility) (§§ 982.451–457) do not apply to assistance under the homeownership option.

(f) *Subpart K requirements.* Except for those sections listed below, the requirements of this part 982, subpart K (Rent and Housing Assistance Payment) (§§ 982.501–517) do not apply to assistance under the homeownership option:

(1) Section 982.504 (Maximum subsidy; FMR/exception rent limit);

(2) Section 982.516 (Examination of family income and composition); and

(3) Section 982.517 (Utility allowance).

(g) *Subpart L requirements.* The following provisions of this part 982, subpart L, do not apply to assistance under the homeownership option:

(1) Section 982.551(c) (HQS breach caused by family);

(2) Section 982.551(d) (Allowing HQS inspection); and

(3) Section 982.551(j) (Interest in unit).

Dated: April 7, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

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Friday
April 30, 1999

Part VII

National Archives and Records Administration

36 CFR Parts 1220, 1222, and 1228
Agency Records Centers; Proposed Rules
Storage of Federal Records; Proposed Rule

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1228

RIN 3095–AA81

Agency Records Centers

AGENCY: National Archives and Records Administration (NARA).

ACTION: Proposed rule.

SUMMARY: NARA proposes to issue revised regulations updating the standards that records center storage facilities must meet to store Federal records. Since the regulations were last updated in 1982, there have been a number of advances in sprinkler systems and other general facility standards that significantly improve the environment and general safeguards for Federal records. This proposed rule also reflects updated information on certain measures that may prevent fire and water damage to records. NARA also recognizes the authority of agencies to contract with private entities for the storage of Federal records. NARA provides agencies with standards, procedures and guidelines for the use of such commercial records storage facilities. The regulation will apply to all agencies, including NARA, that establish and operate records centers, and to agencies that contract for the services of commercial records storage facilities.

DATES: Comments must be received by June 29, 1999.

ADDRESSES: Comments must be sent to Regulation Comment Desk (NPOL), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Comments may be faxed to 301–713–7270.

FOR FURTHER INFORMATION CONTACT: Nancy Allard at (301) 713–7360, ext. 226.

SUPPLEMENTARY INFORMATION: Based upon advancements in technical knowledge and experience gained over the past two decades, NARA believes it is time to update the standards for the storage of Federal records in the legal custody of Federal agencies. For the first time, NARA's storage standards will be extended to cover NARA's records centers and commercial records storage facilities used by Federal agencies, as well as the currently covered centers operated and maintained by other Federal agencies. Regardless of where they are stored, it is the responsibility of each agency to ensure that records in their legal custody are stored in appropriate space. Agencies must ensure that any records storage facility they use meets these updated standards. Agencies must obtain NARA's approval before establishing an agency records center or using an agency records center operated by another agency, and must provide to NARA documentation of compliance with the standards before transferring any agency records to a commercial records storage facility.

Federal records provide essential documentation of the Federal Government's policies and transactions and protect rights of individuals. These records must be stored in appropriate space to ensure that they remain available for their scheduled life. The proposed facility standards specify the required storage conditions when an agency's records are no longer maintained in agency office space. These proposed standards, which apply to records still in the legal custody of the agency, ensure that permanent records will be stored under environmental conditions equal to the office environmental conditions in which they were created.

The proposed basic facility standards outlined in § 1228.228 will apply to existing NARA and agency records centers and to commercial records storage facilities that are currently storing records. Any new NARA records center, any new agency-operated records center, and any new commercial records storage facility must also meet the standards for new facilities in these regulations.

All records storage facilities must meet the proposed fire-safety requirements in § 1228.230 when the rule becomes effective to protect against the loss of essential government evidence. We recognize that it may not be feasible to implement certain other provisions in existing facilities that met the standards in effect before this proposed change. Existing facilities must comply with requirements that minimize the risk of water damage to records from roof leaks or broken pipes within 10 years. Existing facilities that store permanent records prior to their transfer to the National Archives of the United States, unscheduled records, or sample/select records must meet the proposed environmental control standards within 10 years.

Because we believe that all newly acquired records storage space for Federal records should provide appropriate environmental controls and the best possible protection against records disasters, we are requiring that all new facilities that are used to store Federal records after the effective date meet certain higher or additional standards that reflect current knowledge on protecting records from damage. For example, in proposed §§ 1228.230(b) and (e), we are proposing different fire protection specifications for walls and roofs that reflect experience over the past 15 years with fire suppression in records storage facilities. Professionally designed fire suppression systems function as designed in over 97 percent of all actual fires. However, in a small number of cases, either when the system has been deactivated, or the fire source far exceeded the design characteristics (e.g., arson with large quantities of gasoline), the suppression system may fail to contain the fire, resulting in a fire involving a full storage module. Since the contents of a 250,000 cubic foot module can burn at furnace heat for a day or more, venting a module that is totally involved in fire is necessary to prevent the spread of the fire to adjacent storage modules. Venting a fire which has involved an entire records storage module to the outside through an entire wall or roof relieves the heat and allows application of vast quantities of water directly to the fire, and allow firefighters to enter adjacent (protected) areas of the building to cool doors protecting wall openings with hose streams. Venting vast quantities of heat to the atmosphere and cooling with hose streams can enable a four hour fire wall to endure a fire that rages for many hours. For this reason, we require that new records storage facilities have one exterior wall of each stack area and the roof designed with a maximum fire rating of one-hour. The actual timing of wall or roof failure will depend on the specific fire characteristics: a one-hour wall may fail in 30 minutes in an extreme fire, or last several hours in a less extreme fire. However, it will fail substantially earlier than a four-hour wall, providing earlier venting and hose stream access. As the exterior walls and roofs play a significant role in protecting the contents from incursion of an exterior fire, we require, for new construction, walls and roofs rated at least 30-minutes but not more than one-hour.

NARA has developed the fire-related safety requirements in this proposed rule with the assistance of recognized experts in the field of fire suppression. These new performance-based standards for fire-suppression (sprinkler) systems limit the loss of records to a maximum of 300 cubic feet per incident. The standard has been set to reflect what current sprinkler technology can guarantee. The application of these performance-based standards offers significant protection for Federal records that are housed in records storage facilities. Our previously

established fire safety standards in Subpart K simply described the then-existing NARA-developed sprinkler fire suppression systems. The proposed rule describes a fire-suppression system that meets the new performance-based standard but allows the use of other systems if performance tests show they meet the new standard. See § 1228.232 which outlines the steps needed to certify a fire-safety detection and suppression system and § 1228.234 which outlines NARA's certified system.

Several new requirements reflect government-wide requirements imposed since the regulations were last updated in 1982. The building security requirements are those established by the Department of Justice for Level III Federal facilities. Seismic safety provisions are required by Executive orders and an integrated pest management program is mandated for Federal agencies by the Food Protection Act of 1996.

The proposed revision to subpart K also modifies the procedures for requesting NARA approval to establish or relocate an agency records center. The proposed procedures remove the requirement for agency justification of its choice of storage facility and provide that NARA will deny requests only if NARA determines that the proposed agency records center does not demonstrate full compliance with the standards in this subpart. No NARA approval is required for an agency to contract with a commercial records storage facility, but agencies must ensure that any such facility selected complies with NARA's requirements for the storage of Federal records. If an agency contracts with a commercial records storage facility, the agency must certify to NARA that the facility complies with Subpart K.

In a separate proposed rule published elsewhere in this separate part of the **Federal Register**, NARA is proposing to establish new definitions for ''records center,'' ''commercial records storage facility,'' and ''records storage facility'' that are referenced in this proposed rule. For the convenience of reviewers of this proposed rule, terms used in this regulation that are defined (or proposed for definition) elsewhere in NARA regulations are restated here:

Records storage facility is a facility used by a Federal agency to store Federal records, whether that facility is operated and maintained by the agency, by NARA, by another Federal agency, or by a private commercial entity. [proposed definition]

Commercial records storage facility is a private sector commercial facility that offers records storage, retrieval, and disposition services. [proposed definition]

Records center is defined in 44 U.S.C. 2901(6) as an establishment maintained and operated by the Archivist or by another Federal agency primarily for the storage, servicing, security, and processing of records which need to be preserved for varying periods of time and need not be retained in office equipment or space. [proposed definition]

Permanent record means any Federal record that has been determined by NARA to have sufficient value to warrant its preservation in the National Archives of the United States. Permanent records include all records accessioned by NARA into the National Archives of the United States and later increments of the same records, and those for which the disposition is permanent on SF 115s, Request for Records Disposition Authority, approved by NARA on or after May 14, 1973. [proposed definition]

Unscheduled records are records the final disposition of which has not been approved by NARA. Unscheduled records are those that have not been included on a Standard Form 115, Request for Records Disposition Authority, approved by NARA; those described but not authorized for disposal on an SF 115 approved prior to May 14, 1973; and those described on an SF 115 but not approved by NARA (withdrawn, canceled, or disapproved). [36 CFR 1220.14]

This rule is a significant regulatory action for the purposes of Executive Order 12866, and has been reviewed by OMB. As required by the Regulatory Flexibility Act, we certify that this proposed rule will not have a significant impact on small entities.

List of Subjects in 36 CFR Part 1228

Archives and records.

For the reasons set forth in the preamble, NARA proposes to amend part 1228 of title 36, Code of Federal Regulations, as follows:

PART 1228—DISPOSITION OF FEDERAL RECORDS

1. The authority citation for part 1228 continues to read as follows:

Authority: 44 U.S.C. chs. 21, 29, and 33.

2. Revise subpart K to read as follows:

Subpart K—Facility Standards for Records Storage Facilities

Sec.

General

1228.220 What authority applies to this subpart?
1228.222 What does this subpart cover?
1228.224 Publications incorporated by reference.
1228.226 Definitions.

Facility Standards

1228.228 What are the facility requirements for all records storage facilities?
1228.230 What are the fire safety requirements that apply to records storage facilities?
1228.232 What does an agency have to do to certify a fire-safety detection and suppression system?
1228.234 What is NARA's certified fire-safety detection and suppression system for records storage facilities?
1228.236 What are the requirements for environmental controls for records storage facilities?

Approval and Inspection Requirements

1228.240 How does an agency request authority to establish or relocate records storage facilities?
1228.242 When may NARA conduct an inspection of a records storage facility?

Subpart K—Facility Standards for Records Storage Facilities

General

§ 1228.220 What authority applies to this subpart?

NARA is authorized to establish, maintain and operate records centers for Federal agencies under 44 U.S.C. 2907. NARA is authorized, under 44 U.S.C. 3103, to approve a records center that is maintained and operated by an agency. NARA is also authorized to promulgate standards, procedures, and guidelines to Federal agencies with respect to the storage of their records in commercial records storage facilities. See 44 U.S.C. 2104(a), 2904 and 3102. The regulations in this subpart apply to all records storage facilities Federal agencies use to store, service, and dispose of their records.

§ 1228.222 What does this subpart cover?

(a) This subpart covers the establishment, maintenance, and operation of records centers, whether Federally-owned and operated by NARA or another Federal agency, or Federally-owned and contractor operated. This subpart also covers an agency's use of commercial records storage facilities. Records centers and commercial records storage facilities are referred to collectively as records storage facilities. This subpart specifies the minimum structural, environmental, property, and life-safety standards that a records storage facility must meet when the facility is used for the storage of Federal records.

(b) Except where specifically noted, this subpart applies to all records storage facilities. Certain noted

provisions apply only to new records storage facilities.

§ 1228.224 Publications incorporated by reference.

(a) *General.* The following publications cited in this section are hereby incorporated by reference into this part 1228. They are available from the issuing organizations at the addresses listed in this section. They are also available for inspection at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC. 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. These materials are incorporated as they exist on the date of approval, and a document indicating any change in these materials will be published in the **Federal Register**.

(b) *American Society of Testing and Materials (ASTM) standards.* The following ASTM standard is available from the American Society of Testing and Materials, 100 Barr Harbor Drive, West Conshocken, PA, 19428–2959, or on-line at www.astm.org:

E–119 (1998), Standard Test Methods for Fire Tests of Building Construction and Materials.

(c) *National Fire Protection Association (NFPA) standards.* The following NFPA standards are available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269–9101, or on-line at www.catalog.nfpa.org:

NFPA 10 (1994), Standard for Portable Fire Extinguishers.

NFPA 13 (1996), Standard for the Installation of Sprinkler Systems.

NFPA 20 (1996), Standard for the Installation of Centrifugal Fire Pumps.

NFPA 40 (1997), Standard for the Storage and Handling of Cellulose Nitrate Motion Picture Film.

NFPA 42 (1997) Standard for Storage of Pyroxylin Plastics.

NFPA 72 (1996), National Fire Alarm Code.

NFPA 101 (1997), Life Safety Code.

NFPA 231 (1998), Standard for General Storage.

NFPA 231C (1998), Standard for the Rack Storage of Materials.

NFPA 232 (1995), Standard for the Protection of Records.

NFPA 232A (1995), Guide for Fire Protection of Archives and Records Centers.

(d) *Underwriters Laboratory (UL) Standards.* The following UL standards are available from the Underwriters Laboratory at www.ul.com or from Global Engineering Documents, 15 Inverness Way East, Englewood, CO 80112:

UL 611, Central Burglar Alarm Systems.

UL 827, Central Fire Alarm Stations.

UL 1076, Proprietary Burglar Alarm Units and Systems.

(e) *American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. (ASHRAE) Standards.* The following ASHRAE standards are available from ASHRAE at ASHRAE Customer Service, 1791 Tullie Circle NE, Atlanta, GA 30329 or online at www.ASHRAE.org:

ASHRAE 55–1992, Thermal Environmental Conditions for Human Occupancy.

ASHRAE 62–1989, Ventilation for Acceptable Indoor Air Quality.

(f) *American National Standards Institute (ANSI) standards.* The following ANSI standards are available from the American National Standards Institute, 11 West 42nd St., New York, NY 10036:

ANSI/PIMA IT9.11–1998 Imaging Materials—Processed Safety Photographic Films—Storage

ANSI/PIMA IT9.18–1996 Imaging Materials—Processed Photographic Plates—Storage Practices.

ANSI /PIMA IT9.20–1996 Imaging Materials—Reflection Prints—Storage Practices.

ANSI/PIMA IT9.23–1997 Imaging Materials—Polyester Base Magnetic Material—Storage Practices.

ANSI/PIMA IT9.25–1998 Imaging Materials—Optical Disc Media—Storage.

§ 1228.226 Definitions.

The following definitions apply to this subpart:

(a) The terms *must* and *provide* indicate that a provision is mandatory.

(b) The terms *should* or *may* indicate that a provision is recommended or advised but not required.

(c) *Records center* has the meaning specified in § 1220.14 of this chapter.

(d) *Commercial records storage facility* has the meaning specified in § 1220.14 of this chapter.

(e) *Records storage facility* has the meaning specified in § 1220.14 of this chapter.

(f) *New records storage facility* means any records center or commercial records storage facility established or converted for use as a records center or commercial records storage facility on or after October 1, 1999.

(g) *Existing records storage facility* means any records center or commercial records storage facility used to store records on September 30, 1999, and has stored records continuously since that date.

(h) *Permanent record* has the meaning specified in § 1220.14 of this chapter.

(i) *Temporary record* has the meaning specified in § 1220.14 of this chapter.

(j) *Unscheduled records* has the meaning specified in § 1220.14 of this chapter.

(k) *Sample/Select records* means records whose final disposition requires an analytical or statistical sampling prior to final disposition authorization, in which some percentage of the original accession will be retained as permanent records.

Facility Standards

§ 1228.228 What are the facility requirements for all records storage facilities?

(a) The facility must be constructed with non-combustible materials and building elements, including walls, columns and floors. An agency may request a waiver of this requirement from NARA for an existing records storage facility with combustible building elements to continue to operate until October 1, 2009. In its request for a waiver, the agency must provide documentation that the facility has a fire suppression system specifically designed to mitigate this hazard and that the system has been certified in accordance with § 1228.232 to meet the requirements of § 1228.230(s). Requests must be submitted to the Director, Space and Security Management Division (NAS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001.

(b) A facility with two or more stories must be designed or certified by a licensed fire protection engineer to avoid catastrophic failure of the structure due to an uncontrolled fire on one of the intermediate floor levels.

(c) The building must be sited a minimum of five feet above and 100 feet from any 100 year flood plain areas, or be protected by an appropriate flood wall.

(d) The facility must be designed in accordance with regional building codes to provide protection from building collapse or failure of essential equipment from earthquake hazards, tornados, hurricanes and other potential natural disasters.

(e) Roads, fire lanes and parking areas must permit unrestricted access for emergency vehicles.

(f) A floor load limit must be established for the records storage area by a licensed structural engineer. The limit must take into consideration the height and type of the shelving or storage equipment, the width of the aisles, the configuration of the space, etc. The allowable load limit must be posted in a conspicuous place and must not be exceeded.

(g) All roof mounted equipment is prohibited. Place nothing on the roof that may cause damage to the roof membrane. The requirements in this paragraph are effective [effective date of final rule] in new records storage facilities. Existing facilities must meet this requirement no later than October 1, 2009.

(h) Piping (with the exception of fire protection sprinkler piping and storm water roof drainage piping) must not be run through records storage areas. If drainage piping from roof drains must be run though records storage areas, the piping must be run to the nearest vertical riser and must include a continuous gutter sized and installed beneath the lateral runs to prevent leakage into the storage area. Vertical pipe risers required to be installed in records storage areas must be fully enclosed by shaft construction with appropriate maintenance access panels. The requirements in this paragraph are effective [effective date of final rule] in new records storage facilities. Existing facilities must meet this requirement no later than October 1, 2009.

(i) The following standards apply to storage shelving:

(1) All storage shelving must be designed and installed to provide seismic bracing that meets the requirements of Executive Order 12941, Seismic Safety of Existing Federally Owned or Leased Buildings (3 CFR, 1994 Comp., p. 955), or Executive Order 12699, Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction (3 CFR, 1990 Comp., p. 269);

(2) Steel shelving or other open-shelf records storage equipment must be braced to prevent collapse under full load. Each shelving unit must be industrial style shelving rated at least 50 pounds per cubic foot supported by the shelf;

(3) Compact mobile shelving systems (if used) must be designed to permit proper air circulation and fire protection (detailed specifications that meet this requirement can be provided by NARA by writing to Director, Space and Security Management Division (NAS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001.).

(j) The area occupied by the records storage facility must be equipped with an anti-intrusion alarm system, or equivalent, meeting the requirements of Underwriters Laboratory Standard 1076, Proprietary Burglar Alarm Units and Systems, level AA, to protect against unlawful entry after hours and to monitor designated interior storage spaces. This intrusion alarm system must be monitored in accordance with Underwriters Laboratory (UL) Standard 611, Central Burglar Alarm Systems.

(k) The facility must comply with the requirements for a Level III facility as defined in the Department of Justice, U.S. Marshals Service report Vulnerability Assessment of Federal Facilities dated June 28, 1995. These requirements are provided in Appendix A to this Part 1228.

(l) Records contaminated by hazardous materials, such as radioactive isotopes or toxins, infiltrated by insects, or exhibiting active mold growth must be stored in separate areas having separate air handling systems from other records.

(m) To eliminate damage to records and/or loss of information due to insects, rodents, mold and other pests that are attracted to organic materials under specific environmental conditions, the facility must have an Integrated Pest Management program as defined in the Food Protection Act of 1996 (Section 303, Public Law 104–170, 110 Stat. 1512). This states in part that Integrated Pest Management is a sustainable approach to managing pests by combining biological, cultural, physical, and chemical tools in a way that minimizes economic, health, and environmental risks. The IPM program emphasizes three fundamental elements:

(1) *Prevention.* IPM is a preventive maintenance process that seeks to identify and eliminate potential pest access, shelter, and nourishment. It also continually monitors for pests themselves, so that small infestations do not become large ones;

(2) *Least-toxic methods.* IPM aims to minimize both pesticide use and risk through alternate control techniques and by favoring compounds, formulations, and application methods that present the lowest potential hazard to humans and the environment; and

(3) *Systems approach.* The IPM pest control contract must be effectively coordinated with all other relevant programs that operate in and around a building, including plans and procedures involving design and construction, repairs and alterations, cleaning, waste management, food service, and other activities.

(n) New records storage facilities also must meet the requirements in this paragraph (n):

(1) Do not install mechanical and/or electrical equipment within records storage areas (either floor mounted or suspended from roof support structures).

(2) A redundant source of primary electric service such as a second primary service feeder should be provided to ensure continuous, dependable service to the facility especially to the HVAC systems, fire alarm and fire protection systems.

(3) The facility must be kept under positive air pressure especially in the area of the loading dock. In addition, to prevent fumes from vehicle exhausts from entering the facility, air intake louvers must not be located in the area of the loading dock, adjacent to parking areas or in any location where a vehicle engine may be running for any period of time. Loading docks must have an air supply and exhaust system that is separate from the remainder of the facility.

§ 1228.230 What are the fire safety requirements that apply to records storage facilities?

(a) The fire detection and protection systems must be designed or certified by a licensed fire protection engineer.

(b) All walls separating records areas from each other and from other storage areas in the building must be 4-hour fire resistant. The records storage areas must not exceed a total capacity of 250,000 cubic feet of records each and must be constructed to prevent migration of fire and smoke to other spaces of the building.

(c) Fire walls that meet the following specifications must be provided:

(1) For existing records storage facilities, at least one-hour-rated fire walls must be provided between the records storage areas and other auxiliary spaces.

(2) For new records storage facilities, two-hour-rated fire walls must be provided between the records storage areas and other auxiliary spaces. One exterior wall of each stack area must be designed with a maximum fire resistive rating of 1 hour.

(d) Penetrations in the walls must not reduce the specified fire resistance ratings. The fire resistance ratings of structural elements and construction assemblies must be in accordance with American Society of Testing and Materials E–119, Standard Test Methods for Fire Tests of Building Construction and Materials.

(e) The fire resistive rating of the roof must be a minimum of ½ hour for all records storage facilities. For new records storage facilities, the fire resistive rating of the roof must also be a maximum of 1 hour.

(f) Openings in fire walls separating records storage areas must be avoided to the greatest extent possible but if openings are necessary they must be protected by self-closing or automatic

Class A fire doors, or equivalent, on each side of the wall openings.

(g) Roof support structures that cross or penetrate fire walls must be cut and supported independently on each side of the fire wall.

(h) If fire walls are erected with expansion joints, the joints must be protected to their full height.

(i) For new records storage facilities, building columns in the records storage areas must be 4-hour fire resistant from the floor to slab above or to the location where they connect to the roof framing system. For existing records storage facilities, the building columns must be at least 2-hour fire resistant.

(j) Automatic roof vents must not be designed into new records storage facilities.

(k) Where lightweight steel roof or floor supporting members (e.g., bar joists having top chords with angles 2 by 1½ inches or smaller, ¼-inch thick or smaller, and 13⁄16-inch or smaller web diameters) are present, they must be protected either by applying a 10-minute fire resistive coating to the top chords of the joists, or by retrofitting the sprinkler system with large drop sprinkler heads. If a fire resistive coating is applied, it must be a product that will not release (off gas) harmful fumes into the facility. If fire resistive coating is subject to air erosion or flaking, it must be fully enclosed in a drywall containment constructed of metal studs with fire retardant drywall. Retrofitting may require modifications to the piping system to ensure that adequate water capacity and pressure are provided in the areas to be protected with these large drop sprinkler heads.

(l) No open flame (oil or gas) unit heaters or equipment may be installed or used in any records storage area.

(m) For existing records storage facilities, boiler rooms or rooms containing equipment operating with a fuel supply (such as generator rooms) must be separated from records storage areas by 2-hour-rated fire walls with no openings directly from these rooms to the records storage areas. Such areas must be vented directly to the outside to a location where fumes will not be drawn back into the facility.

(n) For new records storage facilities, boiler rooms or rooms containing equipment operating with a fuel supply (such as generator rooms) must be separated from records storage areas by 4-hour-rated fire walls with no openings directly from these rooms to the records storage areas. Such areas must be vented directly to the outside to a location where fumes will not be drawn back into the facility.

(o) For new records storage facilities, fuel supply lines must not be installed in areas containing records and must be separated from such areas with 4-hour rated construction assemblies.

(p) Equipment rows running perpendicular to the wall must comply with the Life Safety Code (NFPA 101) with respect to egress requirements.

(q) No oil-type electrical transformers, regardless of size, except thermally protected devices included in fluorescent light ballasts, may be installed in the records storage areas. All electrical wiring must be in metal conduit, except that armored cable may be used where flexible wiring connections to light fixtures are required. Battery charging areas for electric forklifts must be separated from records storage areas with at least a 2 hour rated fire wall.

(r) Hazardous materials, including records on cellulose nitrate film, must not be stored in records storage areas. Nitrate motion picture film and nitrate sheet film may be stored in separate areas that meet the requirements of the appropriate NFPA standard, NFPA 40, Standard for the Storage and Handling of Cellulose Nitrate Motion Picture Film, or NFPA 42, Standard for Storage of Pyroxylin Plastics.

(s) All records storage and adjoining areas must be protected by a professionally-designed fire safety detection and suppression system that is designed to limit the maximum anticipated loss in any single fire event to a maximum of 300 cubic feet of records destroyed by fire. Sections 1228.232 and 1228.234 provide alternate means of complying with this requirement.

§ 1228.232 What does an agency have to do to certify a fire-safety detection and suppression system?

(a) The NARA fire-safety detection and suppression system specified in § 1228.234 has been tested and certified to meet the requirement in § 1228.230(s).

(b) Other automatic extinguishing systems or protective measures may meet the requirement in § 1228.230(s) depending upon specific conditions, such as the type and stacking height of the storage equipment used, or how the space is designed, controlled, and operated. Standards, such as those issued by the National Fire Protection Association (see NFPA 13, NFPA 231, NFPA 231C, NFPA 232 and NFPA 232A), may be used to design an alternative system. The effectiveness of alternative designs in meeting the requirements of § 1228.230(s) must be supported by independent testing (Factory Mutual, Underwriters Laboratories or equivalent).

(c) Send a description of the alternative fire-safety detection and suppression system and documentation of the independent testing results to the Director, Space and Security Management Division (NAS), 8601 Adelphi Road, College Park, MD 20740–6001. NARA will maintain a list of approved alternative systems.

§ 1228.234 What is NARA's certified fire-safety detection and suppression system for records storage facilities?

Fire-safety systems that incorporate all components specified in paragraphs (a) through (o) of this section have been tested and certified to meet the requirements in § 1228.230 for an acceptable fire-safety detection and suppression system for storage of Federal records.

(a) The records storage height must not exceed 15 feet.

(b) All records storage and adjoining areas must be protected by automatic wet-pipe sprinklers. Automatic sprinklers are specified herein because they provide the most effective fire protection for high piled storage of paper records on open type shelving.

(c) The sprinkler system must be rated at no higher than 285 degrees Fahrenheit utilizing quick response (QR) fire sprinkler heads and designed by a licensed fire protection engineer to provide 0.30 gpm per square foot for the most remote 2,000 square feet of floor area at the most remote sprinkler head in accordance with NFPA 13. For facilities with roofs rated at 15 minutes or greater, provide ½″ QR sprinklers rated at no higher than 285 degrees Fahrenheit designed to deliver a density of 0.56 gpm per square foot. For unrated roofs, provide 0.64″ QR ''large drop'' sprinklers rated at no higher than 285 degrees Fahrenheit. For facilities using 7 or 8 shelf track files, use QR sprinklers rated at no higher than 285 degrees Fahrenheit. For new construction and replacement sprinklers, NARA recommends that the sprinklers be rated at 165 degrees Fahrenheit. Installation of the sprinkler system must be in accordance with NFPA 13.

(d) Maximum spacing of the sprinkler heads must be on a 10-foot grid and the positioning of the heads must provide complete, unobstructed coverage, with a clearance of not less than 18-inches from the top of the highest stored materials.

(e) The sprinkler system must be equipped with a water-flow alarm connected to an audible alarm within the facility and to a continuously staffed fire department or an Underwriters

Laboratory approved central monitoring station (see UL 827, Central Fire Alarm Stations) with responsibility for immediate response.

(f) A manual fire alarm system must be provided with a Underwriters Laboratory approved (grade A) central monitoring station service or other automatic means of notifying the municipal fire department. A manual alarm pull station must be located adjacent to each exit. Supplemental manual alarm stations are permitted within the records storage areas.

(g) All water cutoff valves in the sprinkler system must be equipped with automatic closure alarm (tamper alarm) connected to a continuously staffed station, with responsibility for immediate response. If the sprinkler water cutoff valve is located in an area used by the public, in addition to the tamper alarm, the valves must be provided with frangible (easily broken) padlocks.

(h) A dependable water supply free of interruption must be provided including a continuous site fire loop connected to the water main and sized to support the facility with only one portion of the fire loop operational. This normally requires a backup supply system having sufficient pressure and capacity to meet both fire hose and sprinkler requirements for 2-hours. A fire pump connected to an emergency power source must be provided in accordance with NFPA 20 when adequate water pressure is not assured. In the event that public water mains are not able to supply adequate volumes of water to the site, on-site water storage must be provided.

(i) Interior fire hose stations equipped with a 1½ inch diameter hose may be provided in the records storage areas if required by the local fire department, enabling any point in the records storage area to be reached by a 50-foot hose stream from a 100-foot hose lay. If provided, these cabinets must be marked ''For Fire Department Use Only.''

(j) Where fire hose cabinets are not required, fire department hose outlets must be provided at each floor landing in the building core or stair shaft. Hose outlets must have an easily removable adapter and cap. Threads and valves must be compatible with the local fire department's equipment. Spacing must be so that any point in the record storage area can be reached with a 50-foot hose stream from a 100-foot hose lay.

(k) In addition to the designed sprinkler flow demand, 500 gpm must be provided for hose stream demand. The hose stream demand must be calculated into the system at the base of the main sprinkler riser.

(l) Fire hydrants must be located within 250 feet of each exterior entrance or other access to the records storage facility that could be used by firefighters. All hydrants must be at least 50 feet away from the building walls and adjacent to a roadway usable by fire apparatus. Fire hydrants must have at least two, 2½ inch hose outlets and a pumper connection. All threads must be compatible with local standards.

(m) Portable water-type fire extinguishers (2½ gallon stored pressure type) must be provided at each fire alarm striking station. The minimum number and locations of fire extinguishers must be as required by NFPA 10 (1994), Standard for Portable Fire Extinguishers.

(n) Single level catwalks without automatic sprinklers installed underneath may be provided in the service aisles if the edges of all files in the front boxes above the catwalks are stored perpendicular to the aisle (to minimize files exfoliation in a fire). Where provided, the walking surface of the catwalks must be of expanded metal at least .09-inch thickness with a 2-inch mesh length. The surface opening ratio must be equal or greater than 0.75. The sprinkler water demand for protection over bays with catwalks where records above the catwalks are not perpendicular to the aisles must be calculated hydraulically to give .30 gpm per square foot for the most remote 2,000 square feet.

§ 1228.236 What are the requirements for environmental controls for records storage facilities?

(a) *Paper-based temporary records.* Paper-based temporary records must be stored under environmental conditions that prevent the active growth of mold. Exposure to moisture through leaks or condensation, relative humidities in excess of 70%, extremes of heat combined with relative humidity in excess of 55%, and poor air circulation during periods of elevated heat and relative humidity are all factors that contribute to mold growth.

(b) *Nontextual temporary records.* Temporary nontextual records, including microforms and audiovisual and electronic records, must be stored in records storage space that will ensure their preservation for their full retention period. New records storage facilities that store nontextual temporary records must meet the following requirements [effective date of final rule]. Existing records storage facilities that store nontextual temporary records must meet the following requirements no later than October 1, 2009. At a minimum, temporary nontextual records must be stored in records storage space that meets the requirements for medium term storage set by the appropriate standard in this paragraph (b). In general, medium term conditions as defined by these standards are those that will ensure the preservation of the materials for at least 10 years with little information degradation or loss. Records may continue to be usable for longer than 10 years when stored under these conditions, but with an increasing risk of information loss or degradation with longer times. If temporary records require retention longer than 10 years, better storage conditions (cooler and drier) than those specified for medium term storage will be needed to maintain the usability of these records. The applicable standards are:

(1) ANSI/PIMA IT9.11–1998 Imaging Materials—Processed Safety Photographic Films—Storage;

(2) ANSI/PIMA IT9.23–1997 Imaging Materials—Polyester Base Magnetic Material—Storage Practices;

(3) ANSI/PIMA IT9.25–1998 Imaging Materials—Optical Disc Media—Storage;

(4) ANSI /PIMA IT9.20–1996 Imaging Materials—Reflection Prints—Storage Practices; and/or

(5) ANSI/PIMA IT9.18–1996 Imaging Materials—Processed Photographic Plates—Storage Practices.

(c) *Paper-based permanent, unscheduled and sample/select records.* Paper-based permanent, unscheduled, and sample/select records must be stored in records storage space that provides 24 hour/365 days per year air-conditioning equivalent to that required for office space. See ASHRAE Standard 55–1992, Thermal Environmental Conditions for Human Occupancy, and ASHRAE Standard 62–1989, Ventilation for Acceptable Indoor Air Quality, for specific requirements. New records storage facilities that store paper-based permanent, unscheduled, and/or sample/select records must meet this requirement [effective date of final rule]. Existing storage facilities that store paper-based permanent, unscheduled, and/or sample/select records must meet this requirement no later than October 1, 2009.

(d) *Nontextual permanent, unscheduled, and/or sample/select records.* All records storage facilities that store microfilm, audiovisual, and/or electronic permanent, unscheduled, and/or sample/select records must comply with the storage standards for permanent and unscheduled records in

parts 1230, 1232, and/or 1234 of this chapter, respectively.

Approval and Inspection Requirements

§ 1228.240 How does an agency request authority to establish or relocate records storage facilities?

(a) *General policy.* Agencies are responsible for ensuring that records in their legal custody are stored in appropriate space as outlined in this subpart. Under § 1228.156(a), agencies are responsible for removing records from space that does not meet these standards if deficiencies are not corrected within 6 months after initial discovery of the deficiencies by NARA or the agency.

(1) *Agency records centers.* Agencies must obtain prior written approval from NARA before establishing or relocating an agency records center. Each separate agency records center must be specifically approved by NARA prior to the transfer of any records to that individual facility. If an agency records center has been approved for the storage of Federal records of one agency, any other agency that proposes to store its records in that facility must still obtain NARA approval to do so.

(2) *Commercial records storage facilities.* An agency may contract for commercial records storage services. However, before any agency records are transferred to a commercial records storage facility, the transferring agency must ensure that the facility meets all of the requirements for an agency records storage facility set forth in this subpart and must submit the documentation required in paragraph (e) of this section.

(b) *Exclusions.* For purposes of this section, the term ''agency records center'' excludes NARA-owned and operated records centers. For purposes of this section and § 1228.242, the term ''agency records center'' also excludes agency records staging and/or holding areas with a capacity for containing less than 25,000 cubic feet of records. However, such records centers and areas, including records centers operated and maintained by NARA, must comply with the facility standards in §§ 1228.228 through 1228.236.

(c) *Content of requests for agency records centers.* Requests for authority to establish or relocate an agency records center must be submitted in writing to the Director, Space and Security Management Division (NAS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. The request must identify the specific facility and must document compliance with the standards in this subpart.

(d) *Approval of requests for agency records centers.* NARA will review the submitted documentation to ensure the facility demonstrates full compliance with the standards in this subpart. NARA reserves the right to visit the facility, if necessary, to make the determination of compliance. NARA will inform the agency of its decision within 45 days after the request is received. Requests will be denied only if NARA determines that the facility does not demonstrate full compliance with the standards in this subpart. Approvals will be valid for a period of 10 years, unless the facility is materially changed before then or an agency or NARA inspection finds that the facility does not meet the standards in this subpart. Material changes require submission of a new request for NARA approval.

(e) *Documentation requirements for storing Federal records in commercial records storage facilities.* At least 45 days before an agency first transfers records to a commercial records storage facility, the agency must submit documentation to NARA that the facility complies with the standards in this subpart. The documentation may take the form of a copy of the agency's contract that incorporates this subpart in its provisions or a statement from the agency records officer that certifies that the facility meets the standards in this subpart. An agency must provide the documentation for each separate commercial records storage facility where its records will be stored. Documentation must be sent to the Director, Space and Security Management Division (NAS), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. The agency must submit updated documentation to NARA every 10 years if it continues to store records in that commercial records storage facility.

§ 1228.242 When may NARA conduct an inspection of a records storage facility?

(a) At the time an agency submits a request to establish an agency records center, pursuant to § 1228.240, NARA may conduct an inspection of the proposed facility to ensure that the facility complies fully with the standards in this subpart. NARA may also conduct periodic inspections of agency records centers so long as such facility is used as an agency records center. NARA will inspect its own records center facilities on a periodic basis to ensure that they are in compliance with the requirements of this subpart.

(b) Agencies must ensure, by contract or otherwise, that agency and NARA officials, or their delegates, have the right to inspect commercial records storage facilities to ensure that such facilities fully comply with the standards in this subpart. NARA may conduct periodic inspections of commercial records storage facilities so long as agencies use such facilities to store agency records. The using agency, not NARA, will be responsible for paying any fee or charge assessed by the commercial records storage facility for NARA's conducting an inspection.

3. Appendix A is added to part 1228 to read as follows:

Appendix A to Part 1228—Minimum Security Standards for Level III Federal Facilities

Note: The full text of this appendix will appear in the final rule. Copies of the appendix may be obtained from the person listed in **FOR FURTHER INFORMATION CONTACT.**

Dated: February 25, 1999.

John W. Carlin,

Archivist of the United States.

[FR Doc. 99–10703 Filed 4–29–99; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Parts 1220, 1222, and 1228

RIN 3095–AA86

Storage of Federal Records

AGENCY: National Archives and Records Administration.

ACTION: Proposed rule.

SUMMARY: NARA proposes to amend its records management regulations governing records creation, maintenance, and disposition to update provisions relating to the storage of Federal records. Current regulations focus on the use of NARA records centers for off-site storage and provide procedures for securing NARA approval of agency records centers. However, in addition to records centers operated by NARA and other Federal agencies, some agencies now use commercial records storage facilities for the storage of their records. Among the proposed changes is a new requirement that agencies maintain the same level of intellectual control over records stored in their own records centers and commercial records storage facilities, as is required for records stored in NARA records centers. As part of this requirement, agencies must report to NARA when permanent or unscheduled records are sent for storage to an agency records center or

commercial storage facility. The revised regulations specify that agencies must store Federal records in space with appropriate environmental controls to ensure their preservation until the expiration of their retention period (for temporary records) or until the date of transfer to the National Archives of the United States (for permanent records). In a separate related proposed rule published elsewhere in this separate part of the **Federal Register**, NARA is also proposing to update facilities standards for records storage facilities.

DATES: Comments must be received by June 29, 1999.

ADDRESSES: Comments should be sent to Regulation Comment Desk (NPOL), Room 4100, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Comments may also be faxed to 301–713–7270.

FOR FURTHER INFORMATION CONTACT: Nancy Allard at 301–713–7360.

SUPPLEMENTARY INFORMATION: The Federal Records Act assigns responsibility to NARA to provide guidance and assistance to Federal agencies regarding records creation, maintenance, and disposition, and to develop and issue standards, procedures, and guidelines for the proper management of Federal records (44 U.S.C. 2904). The law further charges NARA with responsibility for establishing standards for the identification of permanent records and assisting agencies in applying those standards (44 U.S.C. 2905). The law authorizes NARA to operate records centers (44 U.S.C. 2907) and requires NARA approval for records centers maintained and operated by Federal agencies (44 U.S.C. 3103). Finally, the law requires NARA approval for the disposal of records (44 U.S.C. 3303a).

Many agencies use the records centers operated by NARA for records storage. Some agencies operate their own records centers. In addition, some agencies may use commercial records storage facilities. NARA's oversight encompasses the protection and preservation of Federal records for as long as they are needed, wherever they are stored, in keeping with its statutory responsibility for records management oversight and for the identification and preservation of permanent records.

Over the past three months NARA has reviewed all of its records management regulations to identify provisions that related to records storage and is updating them here to reflect what agencies must do to manage their records wherever they are stored. These changes include:

- New definitions for ''records storage facility'' and ''commercial records storage facility.''
- Clarified definitions for ''disposition,'' ''permanent record,'' and ''records center.''
- A requirement that agencies maintain adequate records management controls over their records, wherever they are maintained. This requirement is implicit in current regulations. It is made explicit now because more agencies than in the past are operating large records centers, and other agencies are placing their records in commercial facilities for storage.
- A requirement that agencies report to NARA on permanent and unscheduled records transferred to storage. For records transferred to NARA records centers, the transfer documentation serves as the report. For records transferred to other records storage facilities, the agency must submit its report within 30 days of transferring the records.
- A requirement that agencies ensure that temporary records are destroyed according to schedule provisions and permanent records are transferred to NARA in accordance with schedule provisions, wherever the records may be at the time of final disposition. NARA takes responsibility for the proper disposition of records in NARA records centers under the provisions of records schedules, including initiating SF 258's for permanent records when they are eligible to be transferred to NARA's legal custody in the National Archives of the United States. Agencies need to ensure that records disposition is properly implemented for records that are not in NARA records centers.
- A requirement that agencies store records only in facilities that meet the standards specified in 36 CFR 1228 subpart K, as proposed for revision in a separate proposed rule published elsewhere in this separate part of the **Federal Register**. This requirement was implicit in the current subpart K and is emphasized here.
- A requirement that agencies obtain NARA approval to change the period of time permanent records will remain in the custody of the agency before transfer to the National Archives of the United States.
- Authorization for agencies to retain records for up to one year beyond their scheduled retention period if needed for administrative purposes such as audit or investigation without requesting formal approval from NARA. Currently, agencies must obtain approval from NARA for any temporary extension, but this approval has been handled informally when records are stored at NARA records centers.
- A requirement that permanent records be transferred to the National Archives of the United States as individual series spanning one or more years. This requirement will ensure that permanent records stored in facilities that control records at the box level will be transferred to the National Archives of the United States in series order.
- Modification of some restrictions on storing unscheduled, contingent, and ''frozen'' records at NARA records centers.

NARA also is proposing other minor clarifications to existing regulations. These changes are not substantive. In addition, NARA proposes to remove some of the detailed instructions for storing and accessing records in NARA records centers. These instructions will be addressed in NARA bulletins and other guidance issuances.

This proposed rule would completely revise subpart I of Part 1228, add a new subpart J to Part 1228, redesignate the current subpart J as subpart L, and revise individual sections or paragraphs of other records management regulations in 36 CFR Chapter XII, Subchapter B. We have written subparts I and J in the plain language format required by the Presidential memorandum of June 1, 1998, Plain Language in Government Writing. We intend to rewrite the other records management regulations included in this proposed rule in plain language format in a future rulemaking. At this time, we have determined that piecemeal reformatting of individual sections or paragraphs is not appropriate.

This rule is a significant regulatory action under E.O. 12866 of September 30, 1993, and has been reviewed by OMB. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small entities.

List of Subjects in 36 CFR Parts 1220, 1222, and 1228

Archives and records.

For the reasons set forth in the preamble, NARA proposes to amend 36 CFR parts 1220, 1222, and 1228 as follows:

PART 1220—FEDERAL RECORDS; GENERAL

1. The authority citation for part 1220 continues to read as follows:

Authority: 44 U.S.C. 2104(a) and chs. 29 and 33.

2. In § 1220.14, revise the definitions of ''Disposition'', ''Permanent record''

and ''Recordkeeping requirements'; and add new definitions in alphabetical order for ''Commercial records storage facility'', ''Records center'', and ''Records storage facility'' to read as follows:

§ 1220.14. General definitions.

* * * * *

Commercial records storage facility is a private sector commercial facility that offers records storage, retrieval, and disposition services.

* * * * *

Disposition means those actions taken regarding records no longer needed for the conduct of the regular current business of the agency.

* * * * *

Permanent record means any Federal record that has been determined by NARA to have sufficient value to warrant its preservation in the National Archives of the United States. Permanent records include all records accessioned by NARA into the National Archives of the United States and later increments of the same records, and those for which the disposition is permanent on SF 115s, Request for Records Disposition Authority, approved by NARA on or after May 14, 1973.

* * * * *

Recordkeeping requirements means all statements in statutes, regulations, and agency directives or authoritative issuances, that provide general and specific requirements for Federal agency personnel on particular records to be created and maintained by the agency.

* * * * *

Records center is defined in 44 U.S.C. 2901(6) as an establishment maintained and operated by the Archivist or by another Federal agency primarily for the storage, servicing, security, and processing of records which need to be preserved for varying periods of time and need not be retained in office equipment or space.

* * * * *

Records storage facility is a records center or a commercial records storage facility, as defined in this section, i.e., a facility used by a Federal agency to store Federal records, whether that facility is operated and maintained by the agency, by NARA, by another Federal agency, or by a private commercial entity.

* * * * *

3. In § 1220.18, revise the section heading, designate the existing text as paragraph (b), and add new paragraph (a) to read as follows:

§ 1220.18 Inspection of records.

(a) In order for NARA to conduct inspections and studies required in 44 U.S.C. Chapter 29 and records appraisals in 44 U.S.C. Chapter 33, agencies must provide access for authorized NARA staff members to records in the agency's legal custody, regardless of the physical location of the records.

* * * * *

4. Revise § 1220.36 to read as follows:

§ 1220.36 Maintenance and use of records.

(a) Agencies must institute adequate records management controls over the maintenance and use of records wherever they are located to ensure that all records, regardless of format or medium, are organized, classified, and described to promote their accessibility, and make them available for use by all appropriate agency staff for their authorized retention period. Agencies must also maintain permanent records in a format that will permit transfer to the National Archives of the United States.

(b) Agencies must ensure that they maintain adequate information about their records moved to an off-site records storage facility (see 36 CFR 1228.154). Agencies must also create and maintain records that document the destruction of temporary records and the transfer of permanent records to the National Archives of the United States. The disposition of records that provide such documentation is governed by General Records Schedule (GRS) 16.

(c) Agencies must also comply with GSA regulations on the maintenance and use of records found in 41 CFR part 101–11.

5. Revise § 1220.38 to read as follows:

§ 1220.38 Disposition of records.

(a) Agencies must ensure the proper, authorized disposition of their records, regardless of format or medium, so that permanent records are preserved and temporary records no longer of use to an agency are promptly deleted or disposed of in accordance with the approved records schedule when their required retention period expires. As an intermediate step when records are not needed for current day-to-day reference, they may be transferred to a records storage facility.

(b) Agencies must secure NARA approval of a records schedule or apply the appropriate General Records Schedule item before destroying any temporary records or transferring permanent records to the National Archives of the United States (see 36 CFR part 1228).

6. Revise § 1220.42 to read as follows:

§ 1220.42 Agency internal evaluations.

Each agency must periodically evaluate its records management programs relating to records creation and record keeping requirements, maintenance and use of records, and records disposition. These evaluations shall include periodic monitoring of staff determinations of the record status of documentary materials in all media, and implementation of these decisions. These evaluations should determine compliance with NARA regulations in this subchapter, including requirements for storage of agency records and records storage facilities in 36 CFR part 1228, subparts I and K, and assess the effectiveness of the agency's records management program.

PART 1222—CREATION AND MAINTENANCE OF FEDERAL RECORDS

7. In § 1222.20, remove the period at the end of paragraphs (b)(5), (b)(8), and (b)(9), and add a semicolon in its place, and add paragraph (b)(10) to read as follows:

§ 1222.20 Agency responsibilities.

* * * * *

(b) * * *

(10) Ensure that records storage facilities used to store the agency's records comply with the standards specified in 36 CFR part 1228, subpart K. The agency must also comply with 36 CFR 1228.240 by obtaining NARA approval of an agency records center or submitting documentation of compliance by a commercial records storage facility before the agency transfers records to that facility.

8. In § 1222.50, revise the section heading and add paragraph (c) to read as follows:

§ 1222.50 Records maintenance and storage.

* * * * *

(c) Agencies must ensure that records in their legal custody sent for off-site storage are maintained in facilities that meet the standards specified in 36 CFR part 1228, subpart K, and that the information requirements specified at 36 CFR 1228.154 are met. Agencies must remove their records from any records storage facility that is found to be non-compliant with the standards specified in 36 CFR part 1228, subpart K, if the facility is not brought into compliance within 6 months of initial discovery by NARA or the using agency.

PART 1228—DISPOSITION OF FEDERAL RECORDS

9. In § 1228.22, revise paragraph (d) to read as follows:

§ 1228.22 Developing records schedules.

* * * * *

(d) Based on agency need, develop specific recommended retention and disposition instructions for each records series or each part of an automated information system, including file breaks, retention periods for temporary records, transfer periods for permanent records, and instructions for the transfer of records to an approved records storage facility when appropriate.

* * * * *

10. In § 1228.24, revise paragraph (c)(2) to read as follows:

§ 1228.24 Formulation of agency records schedules.

* * * * *

(c) *Provisions of schedules.* * * *

(2) The removal to a records storage facility of records not eligible for immediate destruction or other disposition but which are no longer needed in office space. These records are maintained by the records storage facility until they are eligible for final disposition action;

* * * * *

11. In § 1228.32, add paragraph (c), to read as follows:

§ 1228.32 Request to change disposition authority.

* * * * *

(c) Agencies must secure NARA approval before changing the provision in a disposition instruction that specifies the period of time that permanent records will remain in agency legal custody prior to transfer to the National Archives of the United States.

12. In § 1228.50, revise paragraphs (a)(1) and (a)(3) to read as follows:

§ 1228.50 Application of schedules.

* * * * *

(a) * * *

(1) Published schedules do not include nonrecurring records for which NARA has granted authority for immediate disposal or transfer to the National Archives of the United States. They do include general instructions for transfer of records to a records storage facility, transfer of records to the National Archives of the United States, and other retention and disposition procedures.

* * * * *

(3) Prior to issuance, agencies may consult with NARA concerning directives or other issuances containing approved schedules, instructions for use of NARA records centers, transfer of records to the National Archives of the United States, or other matters covered by NARA procedures or regulations.

* * * * *

13. In § 1228.54, revise paragraphs (a), (c)(4), and (e) and remove paragraphs (g) and (h) to read as follows:

§ 1228.54 Temporary extension of retention periods.

(a) Approved agency records schedules and the General Records Schedules are mandatory (44 U.S.C. 3303a). Records series or systems eligible for destruction must not be maintained longer without the prior written approval of the National Archives and Records Administration (NWML) except when:

(1) The agency has requested a change in the retention period for the records series or system in accordance with § 1228.32; or

(2) Records are needed for up to one year beyond the date they are eligible for disposal. When such records are in a records storage facility, the agency must notify the facility of the need for continued retention of the records.

* * * * *

(c) * * *

(4) A statement of the current and proposed physical location of the records.

* * * * *

(e) Agencies must ensure that affected records storage facilities are notified when NARA approves an extension of the retention period beyond the period authorized in the records control schedule. Agencies must forward to NARA (NWML) two copies of all formally issued instructions which extend the retention periods.

* * * * *

14. In § 1228.100, revise paragraph (a) to read as follows:

§ 1228.100 Responsibilities.

(a) The Archivist of the United States and heads of Federal agencies are responsible for preventing the alienation or unauthorized destruction of records, including all forms of mutilation. Records may not be removed from the legal custody of Federal agencies or destroyed without regard to the provisions of agency records schedules (SF 115 approved by NARA or the General Records issued by NARA).

* * * * *

15. Revise subpart I to read as follows:

Subpart I—Transfer of Records to Records Storage Facilities

Sec.

1228.150 Where can a Federal agency transfer records for storage?
1228.152 Under what conditions may Federal records be stored in records storage facilities?
1228.154 What requirements must an agency meet when it transfers records to a records storage facility?
1228.156 What procedures must an agency follow to transfer records to an agency records center or commercial records storage facility?

Subpart I—Transfer of Records to Records Storage Facilities

§ 1228.150 Where can a Federal agency transfer records for storage?

Federal agencies may store records in the following types of records storage facilities, so long as the facilities meet the facility standards in subpart K of this part. Records transferred to a records storage facility remain in the legal custody of the agency.

(a) NARA records centers. NARA owns or operates records centers for the storage, processing, and servicing of records for Federal agencies under the authority of 44 U.S.C. 2907. These NARA records centers include a National Personnel Records Center which contains designated records of the Department of Defense and the Office of Personnel Management and other designated records pertaining to former Federal civilian employees. A list of NARA records centers is available from the NARA web site at http://www.nara.gov and also in the U.S. Government Manual, which is for sale from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop: SSOP, Washington, DC 20402–9328, and is available on the Internet from http://www.access.gpo.gov/nara.

(b) Records centers operated by or on behalf of one or more Federal agencies other than NARA.

(c) Commercial records storage facilities operated by private entities.

§ 1228.152 Under what conditions may Federal records be stored in records storage facilities?

The following chart shows what records can be stored in a records storage facility and the conditions that apply:

Type of record	Conditions
(1) Permanent records	(i) Any storage facility that meets the provisions of subpart K of this part.
(2) Unscheduled records	(i) Any storage facility that meets the provisions of subpart K of this part. (ii) Also requires submission of SF 115 and its acceptance from NARA under the provisions of subpart B of this part.
(3) Temporary records (excluding Civilian Personnel Records and Military Personnel Records).	(i) Any storage facility that meets the provisions of subpart K of this part.
(4) Vital records	(i) Storage facility must meet the provisions of subpart K of this part and 36 CFR part 1236.
(5) Civilian Personnel Records and Military Personnel Records.	(i) May only be transferred to NPRC, St. Louis as required by this part.

§ 1228.154 What requirements must an agency meet when it transfers records to a records storage facility?

An agency must meet the following requirements when it transfers records to a records storage facility:

(a) Ensure that the requirements of subpart K of this part are met. Special attention must be paid to ensuring appropriate storage conditions for records on non-paper based media (e.g., film, audio tape, magnetic tape), especially those that are scheduled for long-term or permanent retention, as those records typically require more stringent environmental controls (see 36 CFR parts 1230 through 1234).

(b) To transfer unscheduled records, submit an SF 115 to NARA (NWML) prior to the transfer. The agency may transfer the records only after NARA has determined that the SF 115 meets the requirements specified in this part.

(c) Create documentation sufficient to identify and locate files.

(1) Such documentation must include for each individual records series spanning one or more consecutive years transferred to storage:

(i) Creating office;

(ii) Series title;

(iii) Description (in the case of permanent or unscheduled records, the description must include a folder title list of the box contents or equivalent detailed records description);

(iv) Date span;

(v) Physical form and medium of records (e.g., paper, motion picture film, sound recordings, photographs or digital images);

(vi) Volume;

(vii) Citation to NARA-approved schedule or agency records disposition manual (unscheduled records must cite the date the SF 115 was submitted to NARA);

(viii) Restrictions on access if applicable;

(ix) Disposition (''permanent,'' ''temporary,'' or ''unscheduled; SF 115 pending'');

(x) Date of disposition action (transfer to the National Archives of the United States or destruction);

(xi) Physical location, including name and address of facility; and

(xii) Control number or identifier used to track records.

(2) In the case of permanent and unscheduled records, provide copies of such documentation to NARA.

(d) Ensure that NARA-approved retention periods are implemented properly and that records documenting final disposition actions (destruction or transfer to the National Archives of the United States) are created and maintained as required by 36 CFR 1220.36.

(1) Retain temporary records until the expiration of their NARA-approved retention period and no longer, except as provided for in § 1228.54.

(2) Transfer permanent records to the National Archives of the United States in accordance with § 1228.260.

(e) Provide access to appropriate NARA staff to records wherever they are located in order to conduct an evaluation in accordance with 36 CFR 1220.50 or to process a request for records disposition authority.

(f) Move temporary records that are subsequently reappraised as permanent to a facility that meets the environmental control requirements for permanent records in § 1228.236 within six months of their re-appraisal, if not already in such a facility. (Paper-based permanent records in an existing records storage facility that does not meet the environmental control requirements in § 1228.236(b) on October 1, 2009, must be moved from that facility no later than February 28, 2010.)

§ 1228.156 What procedures must an agency follow to transfer records to an agency records center or commercial records storage facility?

Federal agencies must use the following procedures to transfer records to an agency records center or commercial records storage facility:

(a) Agreements with agency records centers or contracts with commercial records storage facilities must incorporate the standards in subpart K of this part and allow for inspections by the agency and NARA to ensure compliance. An agency must remove records promptly from a facility if deficiencies identified during an inspection are not corrected within six months.

(b) For temporary records , the agency must make available to NARA on request the documentation specified in § 1228.154. For permanent or unscheduled records, the agency must transmit this documentation to NARA (NWML) no later than 30 days after records are transferred to the agency records center or commercial records storage facility.

(c) Agencies must establish procedures that ensure that temporary records are destroyed in accordance with NARA-approved schedules and that NARA-approved changes to schedules, including the General Records Schedules, are applied to records in agency records centers or commercial records storage facilities in a timely fashion. Procedures must include a requirement that the agency records center or commercial records storage facility notify agency records managers or the creating office prior to the disposal of temporary records unless disposal of temporary records is initiated by the agency.

(d) Agencies must establish procedures to ensure that the agency records centers or commercial records storage facilities transfer permanent records to the National Archives of the United States as individual series spanning one or more years and in accordance with the provisions of § 1228.272.

(e) Agencies must ensure that records that are restricted because they are security classified or exempt from disclosure by statute, including the Privacy Act (5 U.S.C. 552a), or regulation are stored and maintained in accordance with applicable laws, executive orders, or regulations.

(f) Agencies must ensure that disposable records, including restricted records (security classified or exempted from disclosure by statute, including the Privacy Act, or regulation), are

destroyed in accordance with the requirements specified in § 1228.58.

(g) Agencies must ensure that emergency operating vital records, as defined in 36 CFR 1236.14, that are transferred to an agency records center or commercial records storage facility are available in accordance with 36 CFR part 1236.

16. Redesignate subpart J of part 1228 as subpart L of part 1228 as set forth in the following redesignation table:

Old section subpart J	New section subpart L
1228.180	1228.260
1228.182	1228.262
1228.183	1228.264
1228.184	1228.266
1228.186	1228.268
1228.188	1228.270
1228.190	1228.272
1228.192	1228.274
1228.194	1228.276
1228.196	1228.278
1228.198	1228.280
1228.200	1228.282

17. Add a new subpart J to read as follows:

Subpart J—Transfer, Use, and Disposition of Records in a NARA Records Center

Sec.

1228.160 How does an agency transfer records to a NARA records center?
1228.162 How does an agency transfer vital records to a NARA records center?
1228.164 What records must be transferred to the National Personnel Records Center (NPRC)?
1228.166 How does an agency transfer records to the National Personnel Records Center (NPRC)?
1228.168 How can records be used in NARA records centers?
1228.170 How are disposal clearances managed for records in NARA records centers?

Subpart J—Transfer, Use, and Disposition of Records in a NARA Records Center

§ 1228.160 How does an agency transfer records to a NARA records center?

An agency transfers records to a NARA records center using the following procedures:

(a) General. NARA will ensure that its records centers meet the facilities standards in subpart K of this part, which meets the agency's obligation in § 1228.154(a).

(b) NARA records centers will not accept records that pose a threat to other records or to the health and safety of users including hazardous materials such as nitrate film, radioactive or chemically contaminated records, records exhibiting active mold growth, or untreated insect or rodent infiltrated records. Agencies may contact the NARA records center for technical advice on treating such records.

(c) Agencies may use any NARA records center (see § 1228.154(a)) if space is available for the storage of unclassified records. All NARA facilities are equipped to store classified records that have a national security classification up to Confidential, and certain NARA facilities can also accept Secret (or ''Q'') classified records. Only the Washington National Records Center is equipped to store records that have been assigned a national security classification of Top Secret, as defined in Executive Order 12958 (3 CFR, 1995 Comp., p. 333) and predecessor orders. For storage of restricted records requiring vault storage (regardless of the level of classification), agencies must contact the records center(s) they wish to use to find out if the center(s) can properly store the records.

(d) Transfers to NARA records centers must be preceded by the submission of a Standard Form 135, Records Transmittal and Receipt. Preparation and submission of this form will meet the requirements for records description provided in § 1228.154(c), except the folder title list required for permanent and unscheduled records. A folder title list is also required for records that are scheduled for sampling or selection after transfer.

(e) A separate SF 135 is required for each individual records series spanning one or more consecutive years with the same disposition authority and disposition date.

(f) For further guidance on transfer of records to a NARA records center, consult the NARA Records Management Web Site (http://www.nara.gov), or current NARA publications and bulletins by contacting the Office of Regional Records Services (NR), individual NARA regional facilities, or the Washington National Records Center (NWMW).

§ 1228.162 How does an agency transfer vital records to a NARA records center?

For assistance on selecting an appropriate site among NARA facilities for storage of vital records, agencies may contact NARA (NR), 8601 Adelphi Rd., College Park, MD 20740–6001. The actual transfers are governed by the general requirements and procedures in this subpart and 36 CFR part 1236.

§ 1228.164 What records must be transferred to the National Personnel Records Center (NPRC)?

General Records Schedules 1 and 2 specify that certain Federal civilian personnel, medical, and pay records must be centrally stored at the National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118. An agency must transfer the following four types of records to the NPRC:

(a) Official personnel folders of separated Federal civilian employees;

(b) Service record cards of employees who separated or transferred on or before December 31, 1947;

(c) Audited individual earnings and pay cards and comprehensive payrolls; and

(d) Employee medical folders of separated Federal civilian employees.

§ 1228.166 How does an agency transfer records to the National Personnel Records Center (NPRC)?

(a) Agencies must use the following procedures when transferring records to the NPRC:

(1) Forward the official personnel folder (OPF) and the employee medical folder (EMF) to the National Personnel Records Center at the same time.

(2) Transfer EMFs and OPFs in separate folders.

(b) For further guidance consult the NPRC web site (http://www.nara.gov/regional/cpr.html).

(c) Consult the Office of Personnel Management web site (http://www.opm.gov/feddata/html/opf.htm) for the OPM publication The Guide to Personnel Recordkeeping for procedures on the transfer of OPFs and EMFs. (The Guide is also available from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop: SSOP, Washington, DC 20402–9328.)

§ 1228.168 How can records be used in NARA records centers?

(a) Agency records transferred to a NARA records center remain in the legal custody of the agency. NARA acts as the agency's agent in maintaining the records. NARA will not disclose the record except to the agency which maintains the record, or under rules established by that agency which are not inconsistent with existing laws.

(b) Federal agencies must use Standard Form (SF) 180, Request Pertaining to Military Records, to obtain information from military service records in the National Personnel Records Center (Military Personnel Records). Agencies may furnish copies of that form to the public to aid in inquiries. Members of the public and non-governmental organizations also may obtain copies of SF 180 by submitting a written request to the National Personnel Records Center (Military Personnel Records), 9700 Page Boulevard, St. Louis, MO 63132. OMB

Control Number 3095–0029 has been assigned to the SF 180.

(c) Use Standard Form 127, Request for Official Personnel Folder (Separated Employee), to request transmission of personnel folders of separated employees stored at the National Personnel Records Center.

(d) Use Standard Form 184, Request for Employee Medical Folder (Separated Employee), to request medical folders stored at the National Personnel Records Center.

(e) Use Optional Form 11, Reference Request—Federal Records Center to request medical records transferred to other NARA records centers prior to September 1, 1984. The request must include the name and address of the agency's designated medical records manager.

(f) For any other requests, use the Optional Form 11, Reference Request—Federal Records Centers, a form jointly designated by that agency and NARA, or their electronic equivalents.

§ 1228.170 How are disposal clearances managed for records in NARA records centers.

(a) Records at the National Personnel Records Center covered by General Records Schedules 1 and 2 will be destroyed in accordance with those schedules without further agency clearance.

(b) Other records of Federal agencies held by NARA records centers will be destroyed only with the concurrence of the agency having legal custody of the records.

(c) Documentation on the final disposition of records, as required in 36 CFR 1220.36, will be maintained by NARA records centers for the period of time required by General Records Schedule 16.

(d) When NARA approves an extension of retention period beyond the time authorized in the records schedule for records stored in NARA records centers, NARA will notify those affected records centers to suspend disposal of the records (see § 1228.54(e)).

18. In newly redesignated subpart L, revise the subpart heading to read as follows:

Subpart L—Transfer of Records to the National Archives of the United States

19. In newly redesignated § 1228.272, revise the section heading and paragraph (a) to read as follows:

§ 1228.272. Transfer of records to the National Archives of the United States.

(a) *Policy.* (1) Federal records will be transferred to NARA's legal custody into the National Archives of the United States only if they are listed as permanent on an SF 115, Request for Records Disposition Authority, approved by NARA since May 14, 1973, or if they are accretions (continuations of series already accessioned) to holdings of the National Archives. Transfers are initiated by submission of an SF 258, Agreement to Transfer Records to the National Archives of the United States.

(2) Each SF 258 must relate to a specific records series, as identified on the SF 115, Request for Records Disposition Authority, in accumulations of one or more consecutive years.

* * * * *

Dated: February 25, 1999.

John W. Carlin,

Archivist of the United States.

[FR Doc. 99–10704 Filed 4–29–99; 8:45 am]

BILLING CODE 7515–01–P

Friday
April 30, 1999

Part VIII

Department of Commerce

National Telecommunications and Information Administration

Telecommunications and Information Infrastructure Assistance Program (TIIAP); Notices

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket Number: 981203295–9094–02]

RIN: 0660–ZA06

Telecommunications and Information Infrastructure Assistance Program(TIIAP)

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Notice of applications received.

SUMMARY: On January 4, 1999, in the **Federal Register** (64 FR 332), the National Telecommunications and Information Administration (NTIA) announced the availability of funds for the Telecommunications and Information Infrastructure Assistance Program (TIIAP) to promote the widespread use of advanced telecommunications and information technologies in the public and non-profit sectors. By providing matching grants for information infrastructure projects, this program will help develop a nationwide, interactive, multimedia information infrastructure that is accessible to all citizens, in rural as well as urban areas. This Notice announces the applications that were received in response to the January 4, 1999, solicitation.

FOR FURTHER INFORMATION CONTACT: Stephen J. Downs, Director, Telecommunications and Information Infrastructure Assistance Program, Telephone: 202–482–2048. Fax: 202–501–5136. Email: tiiap@ntia.doc.gov.

SUPPLEMENTARY INFORMATION:

Applications Received: In all, 702 applications were received from all fifty states, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands. The total amount requested by the applications is $278 million.

Notice is hereby given that the program received applications from the following organizations. The list includes all applications received. Identification of any application only indicates its receipt. It does not indicate that it has been accepted for review, that it has been determined to be eligible for funding, or that an application will receive an award.

Alabama

990092 Bevill State Community College (Sumiton)
990526 City of Opelika, Alabama (Opelika)
990511 Community Service Programs of West Alabama, Inc. (Tuscaloosa)
990565 Crisis Services of North Alabama, Inc. (Huntsville)
990008 Marion Baptist Medical Center (Hamilton)
990484 Rev. Peter James and Florence Lee Kirksey Foundation, Inc. (Boligee)
990016 St. John the Baptist Catholic Church (Montgomery)

Alaska

990089 Aleutians East Borough (Sand Point)
990332 Association of Village Council Presidents, Inc. (Bethel)
990288 Galena City School District (Galena)
990341 Matanuska-Susitna Borough (Palmer)
990054 Native Village of Port Graham, Alaska (Port Graham)
990320 Norton Sound Health Corporation (Nome)
990003 South Peninsula Hospital (Homer)
990633 Tanana Chiefs Conference, Inc. (Fairbanks)
990348 University of Alaska Southeast (Ketchikan)

Arizona

990031 City of Flagstaff, Arizona (Flagstaff)
990419 City of Phoenix (Phoenix)
990030 Lowell Observatory (Flagstaff)
990187 Maricopa Association of Governments (Phoenix)
990115 Mohave County Information Technology Roundtable (Kingman)
990702 Navajo Family Health Resource Network (Window Rock)
990460 Northern Arizona Academy (Show Low)
990161 Northern Arizona University (Flagstaff)
990127 Portable Practical Education Programs, Inc. (Tucson)
990208 Seba Dalkai Boarding School, Inc. (Winslow)
990468 University of Arizona (Tucson)
990372 University of Arizona (Tucson)
990044 Yavapai County Community College District (Prescott)

Arkansas

990403 Arkansas State University at Beebe (Beebe)
990204 Arkansas Tech University (Russellville)
990022 City of Murfreesboro, Arkansas (Murfreesboro)
990675 City of Ward, Arkansas (Ward)
990154 Nonprofit Resources (Little Rock)
990676 State of Arkansas (Little Rock)

California

990681 Ahmium Education, Inc. (San Jacinto)
990322 ARC Associates (Oakland)
990707 Arcata Economic Development Corporation (Arcata)
990153 Association of Monterey Bay Area Governments (Marina)
990602 Bay Area Black Consortium for Quality Health Care (Oakland)
990197 Bay Area School-to-Career Action Network (BaySCAN) (San Rafael)
990509 Bay Area Video Coalition (San Francisco)
990285 California Institute of Technology (Pasadena)
990583 California Institute of the Arts (Valencia)
990178 California State University (Fresno)
990411 Chicano Latino Academies Reaching Out (Brentwood)
990641 City of Agoura Hills, California (Agoura Hills)
990152 City of Calabasas, California (Calabasas)
990477 City of Fresno, California (Fresno)
990095 City of Hayward, California (Hayward)
990088 City of Long Beach, California (Long Beach)
990427 City of Los Angeles (Los Angeles)
990009 City of Oakland, California (Oakland)
990045 City of Petaluma, California (Petaluma)
990012 City of Redlands, California (Redlands)
990654 City of San Diego (San Diego)
990068 City of Turlock, California (Turlock)
990150 City of Turlock, California (Turlock)
990394 City of West Hollywood, California (West Hollywood)
990562 Community Technology Alliance (San Jose)
990497 County of Riverside, California (Riverside)
990684 Davis Community Network (Davis)
990207 Fresno County Economic Opportunities Commission (Fresno)
990469 Galef Institute (Los Angeles)
990685 Humboldt/Trinity Recreation Alliance (Kettenpom)
990686 Ink People, Inc. (Eureka)
990318 Internews Interactive, Inc. (San Rafael)
990692 League of Women Voters of California Education Fund (Sacramento)
990302 Los Angeles County, California (Downey)
990151 Los Angeles County, California (Monterey Park)
990361 Los Angeles Police Academy Magnets (Beverly Hills)
990109 Merced County, California (Merced)
990471 Northern California Council for the Community (San Francisco)
990437 Olive View-UCLA Medical Center Foundation (Sylmar)
990334 Orange County, California (Santa Ana)
990470 Orange County, California (Costa Mesa)
990586 Pangea Foundation (San Diego)
990104 Rolling Readers USA, Inc. (San Diego)
990561 San Diego County, California (San Diego)
990631 San Francisco League of Urban (San Francisco) Gardeners
990286 San Jose State University Foundation (San Jose)
990359 San Mateo County Health Center Foundation (San Mateo)
990706 Santa Clara County, California (San Jose)
990110 University of California at Los Angeles (Los Angeles)
990175 University of California at Santa Cruz (Santa Cruz)
990416 Visible Light, Inc. (Buellton)
990415 Visible Light, Inc. (Santa Barbara)
990512 Vista Community Clinic, Inc. (Vista)

990395 Weingart Center Association (Los Angeles)
990396 Youth Policy Institute (Manhattan Beach)

Colorado

990316 Community Health Center (Colorado Springs)
990423 Denver Juvenile Court (Denver)
990412 Denver Public Library (Denver)
990323 Denver VALE Board (Denver)
990338 Girls Education Advancement Project (Denver)
990482 National Technological University (Ft. Collins)
990431 Southwest Community Outreach Corporation (Denver)
990052 Weld County Regional Communications Center (Greeley)
990069 Western Governors' Association (Denver)
990056 Western State College (Gunnison)

Connecticut

990501 City of Bloomfield, Connecticut (Bloomfield)
990345 Connecticut Association for United Spanish Action, Inc. (Meriden)
990305 Connecticut Conference of Municipalities (New Haven)
990581 Connecticut Public Broadcasting, Inc. (Hartford)
990664 Save the Children Federation, Inc. (Westport)
990344 Town of Manchester, Connecticut (Manchester)
990007 Town of Plainfield, Connecticut (Plainfield)
990266 University of Connecticut at Farmington (Farmington)
990291 Western Connecticut Area Agency on Aging, Inc. (Waterbury)

Delaware

990521 City of Wilmington, Delaware (Wilmington)
990425 Delaware Technical and Community College (Wilmington)

District of Columbia

990390 American Public Health Association (Washington)
990522 Byte Back, Inc. (Washington)
990575 Community Preservation and Development Corporation (Washington)
990546 D.C. Agenda Support Corporation (Washington)
990557 District of Columbia Public Schools (Washington)
990573 Earth Conservation Corps (Washington)
990673 Federal Focus, Inc. (Washington)
990531 Friendship House Association (Washington)
990638 G2-Forward, Inc. (Washington)
990530 John F. Kennedy Center for the Performing Arts (Washington)
990533 National Association of Development Organizations Research Foundation (Washington)
990655 National Community Reinvestment Coalition (Washington)
990212 National Musical Arts (Washington)
990577 Public Education Network (Washington)
990541 Quality Education for Minorities Network (Washington)
990574 Self Reliance Foundation (Washington)
990643 Smithsonian Institution (Washington)
990618 Techworld Public Charter School (Washington)

Florida

990591 Artz-N-The Hood, Inc. (Miami)
990342 Bethune-Cookman College (Daytona Beach)
990337 Boynton Beach City Library (Boynton Beach)
990024 City of Casselberry, Florida (Casselberry)
990215 City of Fort Pierce, Florida (Fort Pierce)
990552 City of Leesburg, Florida (Leesburg)
990340 City of Stuart, Florida (Stuart)
990424 City of West Palm Beach, Florida (West Palm Beach)
990085 Daytona Beach Community College (Daytona Beach)
990017 Everglades Wildlife Sanctuary (La Belle)
990679 Florida Endowment Foundation for Vocational Rehabilitation Inc. (Tallahassee)
990329 Florida Gulf Coast University (Fort Myers)
990032 Florida Human Resources Development, Inc. (Winter Springs)
990384 Florida International University (Miami)
990385 Hendry County, Florida (LaBelle)
990276 Housing Authority of Brevard County, Florida (Merritt Island)
990611 Human Services Planning Association, Inc. (Sarasota)
990321 Jacksonville Children Commission (Jacksonville)
990362 Latin Americans United, Inc. (Pompano Beach)
990270 Miami/Miami-Dade Weed and Seed (Miami)
990026 Monroe County, Florida (Key West)
990035 Orange County, Florida (Winter Park)
990077 Palm Beach County, Florida (West Palm Beach)
990617 Palm Beach County, Florida (West Palm Beach)
990194 Palm Beach County Workforce Development Board, Inc. (Riviera Beach)
990446 Putman County, Florida (Palatka)
990037 Sixth Judicial Circuit of Florida (Clearwater)
990258 South Florida Water Management District (West Palm Beach)
990001 St. Johns County, Florida (St. Augustine)
990374 St. Lucie County, Florida (Fort Pierce)
990432 State of Florida (Tallahassee)
990290 State of Florida (Tallahassee)
990578 State of Florida (Tallahassee)
990454 State of Florida (Tallahassee)
990086 State of Florida (Tallahassee)
990308 Town of Welaka, Florida (Welaka)
990630 University of Central Florida (Orlando)
990162 University of North Florida (Jacksonville)
990483 Village of Bal Harbour, Florida (Bal Harbour)

Georgia

990508 City of Valdosta, Georgia (Valdosta)
990369 Community Resource Council of NEGA (Athens)
990132 Fulton County, Georgia (Atlanta)
990649 Georgia Environmental Organization, Inc. (Smyrna)
990464 Georgia State University Research Foundation (Atlanta)
990401 Metro Atlanta Task Force for the Homeless, Inc. (Atlanta)
990589 Mothers Rebuilding Atlanta (Atlanta)
990360 Richmond County, Georgia (Augusta)
990257 Shepherd Center, Inc. (Atlanta)
990160 Touch the Future, Inc. (Marietta)
990096 ZenSearch, Inc. (Tifton)

Hawaii

990435 ALU LIKE, Inc. (Honolulu)
990506 Kapiolani Medical Center for Women and Children (Honolulu)
990310 Kapiolani Medical Center for Women and Children (Honolulu)
990491 Maemae Elementary School (Honolulu)
990513 University of Hawaii (Kahului)

Idaho

990430 Idaho Public Television (Boise)
990114 Panhandle Health District (Coeur d'Alene)
990203 Tri-State Implementation Council (Sandpoint)

Illinois

990100 Adler Planetarium and Astronomy Museum (Chicago)
990015 Alliance Library System (Pekin)
990084 Cen Com E911 (Round Lake Beach)
990405 Chicago Jobs Council (Chicago)
990399 Christ Hospital and Medical Center (Oak Lawn)
990582 City of Chicago (Chicago)
990231 City of Joliet, Illinois (Joliet)
990145 City of Peoria, Illinois (Peoria)
990273 Community TV Network, Inc. (Chicago)
990241 ECA Meteor Communication Corporation (Bloomington)
990466 Future Teachers of Chicago (Chicago)
990456 Habilitative Systems, Inc. (Chicago)
990049 Hamilton and Jefferson Counties Educational Service Region (Mt. Vernon)
990144 Jackson County, Illinois (Carbondale)
990298 Kane County, Illinois (Geneva)
990601 Lake County, Illinois (Waukegan)
990198 Loyola University of Chicago (Chicago)
990492 LPE Foundation (Schaumburg)
990653 Neighborhood Learning Networks (Chicago)
990306 Quad County Urban League (Aurora)
990612 Research Development and Administration (Carbondale)
990407 Second Harvest (Chicago)
990122 University of Illinois at Chicago (Chicago)

Indiana

990036 Central Indiana Educational Service Center (Indianapolis)
990041 City of Hobart, Indiana (Hobart)

990171 CONNECT, Inc. (South Bend)
990445 Davies County Hospital (Washington)
990136 Family Connection of St. Joseph County, Inc. (South Bend)
990192 Honeywell Foundation, Inc. (Wabash)
990268 Indiana State University (Terre Haute)
990669 Indiana University (Indianapolis)
990690 Kankakee Valley Job Training Program, Inc. (Valparaiso)
990199 State of Indiana (Indianapolis)
990428 United Way of Saint Joseph County (South Bend)
990463 Vanderburgh County, Indiana (Evansville)
990514 Vigo County School Corporation (Terre Haute)
990149 Villages of Indiana, Inc. (Indianapolis)

Iowa

990070 Butler County, Iowa (Allison)
990243 Cass County Memorial Hospital (Atlantic)
990130 City of Fayette, Iowa (Fayette)
990146 Hamilton County, Iowa (Webster City)
990418 Kirkwood Community College (Cedar Rapids)
990417 MidAmerica Area Housing Partnership (Cedar Rapids)
990393 Warren County, Iowa (Indianola)

Kansas

990326 Association of Kansas Hospices (Wichita)
990662 Kansas City Neighborhood Alliance (Kansas City)
990613 Leavenworth County, Kansas (Leavenworth)
990494 Salina Area Chamber of Commerce (Salina)
990400 University of Kansas (Lawrence)
990297 University of Kansas (Lawrence)
990698 University of Kansas Medical School (Wichita)
990147 Urban League of Wichita, Inc. (Wichita)

Kentucky

990059 Appalachian College Association (Berea)
990255 Bowling Green Public Library (Bowling Green)
990455 Butler County, Kentucky (Morgantown)
990163 Center for Rural Development (Somerset)
990357 Daviess County, Kentucky (Owensboro)
990148 Fleming County, Kentucky (Flemingsburg)
990507 Jefferson County, Kentucky (Louisville)
990568 Jefferson County Public Schools (Louisville)
990170 Kentucky Commission on the Deaf and Hard of Hearing (Frankfort)
990365 Lost Squadron Museum, Inc. (Middlesboro)
990379 Seven Counties Services, Inc. (Louisville)
990183 United Way of the Bluegrass (Lexington)
990280 University of Louisville Research Foundation (Louisville)

Louisiana

990376 City of New Iberia, Louisiana (New Iberia)
990254 City of Shreveport, Louisiana (Shreveport)
990551 Dillard University (New Orleans)
990493 Jefferson Parish, Louisiana (Gretna)
990534 Louisiana State University (New Orleans)
990182 Louisiana State University (Shreveport)
990364 Ruach, Inc. (New Orleans)
990524 Shreveport Community Renewal (Shreveport)
990259 South Central Planning and Development Commission (Thibodaux)
990107 Southeastern Louisiana University (Hammond)
990665 Southern University at New Orleans (New Orleans)
990570 Southwest Louisiana Independence Center, Inc. (Lake Charles)

Maine

990671 Coastal Economic Development Corporation (Bath)
990211 Eastern Maine Development Corporation (Bangor)
990225 School Administrative District Number 68 (Dover-Foxcroft)
990169 Western Maine Community Action, Inc. (East Wilton)
990440 YES! To Youth (Portland)

Maryland

990634 City of Baltimore, Maryland (Baltimore)
990532 City of Baltimore, Maryland (Baltimore)
990610 City of Baltimore, Maryland (Baltimore)
990002 City of Takoma Park, Maryland (Takoma Park)
990592 Family League of Baltimore City, Inc. (Baltimore)
990560 Foundation for the Future of Youth (Rockville)
990226 Garrett County Community Action Committee, Inc. (Oakland)
990333 Garrett County Office for Children, Youth and Families (Oakland)
990558 George Meany Center for Labor Studies (Silver Spring)
990608 John Hopkins University (Baltimore)
990672 National Association for Equal Opportunity in Higher Education (Silver Spring)
990559 Network of Community Resources, Inc. (Rockville)
990667 Prince George's County, Maryland (Upper Marlboro)
990520 Second Genesis, Inc. (Bethesda)
990542 Soundprint Media Center, Inc. (Laurel)
990538 State of Maryland (Baltimore)
990616 State of Maryland (Pikesville)
990387 Town of Berlin, Maryland (Berlin)
990606 Towson University (Towson)
990240 Urban Health, Inc. (Kensington)
990539 YMCA of Central Maryland (Baltimore)
990166 Youth Achievers USA, Inc. (Landover)

Massachusetts

990380 Advocates, Inc. (Framingham)
990381 AIDS Housing Corporation (Boston)
990625 Boston College (Chestnut Hill)
990060 CCCC Educational Foundation (Dennis)
990693 Child Care Careers Institute (Jamaica Plain)
990414 Community Action, Inc. (Haverhill)
990598 Cooperative Development Institute, Inc. (Greenfield)
990300 Eunice Kennedy Shriver Center for Mental Retardation, Inc. (Waltham)
990073 Fitchburg State College (Fitchburg)
990595 General Hospital Corporation (Boston)
990284 Greater Lawrence Family Health Center (Lawrence)
990238 Harbor Point Community Task Force (Dorchester)
990074 Hispanic-American Chamber of Commerce (Boston)
990072 Holyoke Community College (Holyoke)
990281 Lynn Public Schools (Lynn)
990696 Madison Park Development Corporation (Roxbury)
990549 Merrimack College (Lawrence)
990635 Northeastern University (Boston)
990386 Plymouth County, Massachusetts (Plymouth)
990180 Town of Wayland, Massachusetts (Wayland)
990648 Tufts University (Boston)
990274 Visiting Nurse Association of Boston (Boston)
990368 YMCA of Greater Boston, Inc. (Boston)

Michigan

990677 Cheboygan Area Schools (Cheboygan)
990604 Commission on Law Enforcement Standards (Lansing)
990438 Focus: HOPE (Detroit)
990080 Huron County, Michigan (Bad Axe)
990525 Jackson Community College (Jackson)
990157 Macomb Intermediate School District (Clinton Township)
990213 Madonna University (Livonia)
990053 Michigan State University (East Lansing)
990632 Mott Community College (Flint)
990079 Northern Economic Initiatives Corporation (Marquette)
990039 Oakland County Community Mental Health Authority (Pontiac)
990220 Saginaw Cooperative Hospitals, Inc. (Saginaw)
990218 Think Detroit, Inc. (Detroit)
990200 University of Michigan (Ann Arbor)
990426 Wayne State University (Detroit)
990075 Western Upper Peninsula District Health Department (Hancock)
990356 Willow Run Community Schools (Ypsilanti)

Minnesota

990236 American Indian Opportunities Industrialization Center, Inc. (Minneapolis)
990091 Asian Media Access (Minneapolis)
990119 Ballet Arts Minnesota (Minneapolis)
990135 CHOICE, Unlimited (Duluth)

990063 City of Burnsville, Minnesota (Burnsville)
990515 City of Mankato, Minnesota (Mankato)
990389 City of Minneapolis (Minneapolis)
990230 City of Minneapolis (Minneapolis)
990313 City of South St. Paul, Minnesota (South St. Paul)
990242 City of West St. Paul, Minnesota (West St. Paul)
990314 DOORWAYS (St. Paul)
990609 Farmers' Legal Action Group, Inc. (St. Paul)
990670 Hermantown I.S.D. Number 700 (Hermantown)
990502 Housinglink (Minneapolis)
990650 Leech Lake Tribal Council (Cass Lake)
990252 Leech Lake Tribal College (Cass Lake)
990346 Metro North Adult Basic Education (Anoka)
990292 MIGIZ Communications, Inc. (Minneapolis)
990545 Minnesota American Indian Chamber of Commerce (Minneapolis)
990553 Minnesota State Agricultural Society (St. Paul)
990108 North Memorial Health Care (Robbinsdale)
990293 Opportunities in Science (Bemidji)
990094 Pine Technical College (Pine City)
990485 Ramsey County, Minnesota (St. Paul)
990269 Rural Health Services, Inc. (Alexandria)
990503 St. Paul Public Schools (St. Paul)
990081 Second Judicial District of Minnesota (St. Paul)

Mississippi

990475 North Mississippi Health Services, Inc. (Tupelo)
990704 Mississippi Action for Community Education, Inc. (Greenville)
990143 University of Mississippi (University)

Missouri

990098 Boone County, Missouri R–IV School District (Hallsville)
990495 City of Jennings, Missouri (Jennings)
990301 City of O'Fallon, Missouri (O'Fallon)
990156 City of Town and County, Missouri (Town and County)
990478 Frisco League Technology Consortium (Newburg)
990283 Green Hills Regional Planning Commission (Trenton)
990645 Heartland Regional Community Foundation (St. Joseph)
990422 Logan College of Chiropractic (Chesterfield)
990307 Northwest Missouri Regional Development Corporation (Maryville)
990137 Richland Medical Center, Inc. (Richland)
990118 St. Elizabeth School District (St. Elizabeth)
990605 St. Louis 2004 (St. Louis)
990367 St. Louis Community College (St. Louis)
990277 State of Missouri (Jefferson City)
990294 Storytellers, Inc. (Kansas City)
990140 Tri-County Mental Health Services, Inc. (Kansas City)

Montana

990239 Career Transitions, Inc. (Bozeman)
990517 Montana-Wyoming Tribal Leaders Council (Billings)
990028 University of Montana (Missoula)
990420 University of Montana (Missoula)

Nebraska

990173 City of South Sioux City, Nebraska (Dixon)
990172 Dixon County, Nebraska (Ponca)
990141 Heartland Health Alliance (Lincoln)
990566 LINKS for the Future Education Trust (Omaha)
990443 Long Pino Community Continuing Education Center (Long Pino)
990206 Nebraska Commission on Law Enforcement and Criminal Justice (Lincoln)
990564 North Platte Nebraska Hospital Corporation (North Platte)
990155 Omaha Community Playhouse (Omaha)
990121 University of Nebraska at Knox County (Lincoln)

New Hampshire

990006 City of Rochester, New Hampshire (Rochester)
990474 Claremont School District (Claremont)
990487 Community Health Institute (Concord)
990111 Concord Regional Visiting Nurse Association (Concord)
990499 Hopkinton School District (Contoocook)
990569 Institute on Gero-Technology (Peterborough)
990636 Manchester Neighborhood Housing Services, Inc. (Manchester)
990579 New Hampshire Community Technical College (Nashua)
990580 University of New Hampshire (Durham)

New Jersey

990498 Borough of North Plainfield, New Jersey (North Plainfield)
990223 Cape May County Technical School District (Cape May)
990398 Center for Food Action in New Jersey, Inc. (Englewood)
990123 Chesilhurst Coalition for Youth and Family Development (Chesilhurst)
990615 City of East Orange, New Jersey (East Orange)
990519 City of Vineland, New Jersey (Vineland)
990444 Civic League of Greater New Brunswick (New Brunswick)
990682 First Baptist Community Development Corporation (Somerset)
990623 Gloucester County, New Jersey (Woodbury)
990624 Harrison Board of Education (Harrison)
990050 Info-Line of Middlesex County (New Brunswick)
990406 New Jersey Institute of Technology Foundation (Newark)
990304 Town of West New York, New Jersey (West New York)
990627 Township of Irvington, New Jersey (Irvington)
990516 Township of Lakewood, New Jersey (Lakewood)
990185 Union County College (Cranford)
990279 Virtua Health (Camden)

New Mexico

990303 Arts New Mexico (Santa Fe)
990691 Branigan Cultural Center Foundation (Las Cruces)
990377 Ghost Ranch Conference Center (Abiquiu)
990354 La Casa de Buena Salud (Portales)
990335 New Mexico Second Judicial District Court (Albuquerque)
990034 NorthEastern New Mexico Educational Foundation, Inc. (Raton)
990265 Pueblo of Pojoaque (Santa Fe)
990014 St. Vincent Hospital (Santa Fe)
990018 Socorro Electric Cooperative, Inc. (Socorro)

Nevada

990142 City of Reno, Nevada (Reno)
990409 Nevada Rural Hospital Project Foundation (Reno)
990066 United Way of Northern Nevada and the Sierra (Reno)
990644 United Way of Southern Nevada (Las Vegas)
990047 University and Community College System of Nevada (Reno)

New York

990544 Abyssinian Development Corporation (New York)
990382 Adirondack Area Network (Troy)
990489 Art in Context Center for Communications (New York)
990548 Arts and Cultural Council for Greater Rochester, Inc. (Rochester)
990496 Association for the Development and Advancement of Sci-Tech, Inc. (Brooklyn)
990543 Black United Fund of New York, Inc. (New York)
990128 Chautauqua County, New York (Mayville)
990658 Children's Health Information and Technology Project (New York)
990229 City of New York (Brooklyn)
990352 City of New York (New York)
990355 City of New York (New York)
990452 City of Newburgh, New York (Newburgh)
990535 Congregations Linked in Urban Strategy to Effect Renewal, Inc. (Yonkers)
990607 Consortium for Worker Education (New York)
990106 Cornell University (Ithaca)
990488 CUNY Research Foundation (New York)
990343 Downtown Community Television Center, Inc. (New York)
990442 Erie County, New York (Buffalo)
990275 Forest Hills Community House, Inc. (Forest Hills)
990038 Fulton County Board of Supervisors (Johnstown)
990585 Fund for the City of New York (New York)
990090 Genesee County Job Development Bureau (Batavia)
990510 Harlem Legal Services, Inc. (New York)
990593 Home Aide Service of Eastern New York, Inc. (Troy)

990657 Homeless and Travelers Aid (Albany)
990209 Lutheran Medical Center (Brooklyn)
990040 Meadowbrook Medical Educational and Research Foundation (East Meadow)
990652 Miracle Makers, Inc. (Brooklyn)
990383 Museum for African Art (New York)
990351 National Multiple Sclerosis Society (New York)
990619 National Urban League (New York)
990353 New York County, New York (New York)
990067 Onondaga County, New York (Syracuse)
990687 Oswego Hospital (Oswego)
990087 Private Industry Council of Chautauqua, Inc. (Jamestown)
990176 Rensselaer Polytechnic Institute (Troy)
990600 Research Foundation of CUNY (Bronx)
990237 Research Foundation of SUNY (Albany)
990621 Rural Development Leadership Network (New York)
990410 Saint Nicholas Neighborhood and Housing Rehabilitation Corporation (Brooklyn)
990189 State of New York (Albany)
990278 State of New York (Albany)
990262 Town of Camillus, New York (Syracuse)
990023 Town of Clarkstown, New York (New City)
990235 Upper Hudson Primary Care Consortium (Glens Falls)
990647 Urban League of Onondaga County, Inc. (Syracuse)
990071 Via Health/Rochester General Hospital (Rochester)
990010 Virginia Fajardo (Oceanside)
990011 Westchester County, New York (Mt. Kisco)
990299 YMCA of Central and Northern Westchester (White Plains)

North Carolina

990473 City of Concord, North Carolina (Concord)
990245 City of Dunn, North Carolina (Dunn)
990523 City of Jacksonville, North Carolina (Jacksonville)
990244 City of Lenoir, North Carolina (Lenoir)
990061 Cumberland County Hospital System, Inc. (Fayetteville)
990247 Duke University (Durham)
990167 Guilford Technical Community College (Jamestown)
990093 Laurinburg Institute/Friends of Laurinburg Institute (Durham)
990500 Mecklenburg County, North Carolina (Charlotte)
990490 North Carolina Central University (Durham)
990195 North Carolina Justice and Community Development Center (Raleigh)
990336 North Carolina Museum of History (Raleigh)
990190 North Carolina State Museum of Natural Sciences (Raleigh)
990221 Stanly Community College (Albemarle)
990228 Stanly County, North Carolina (Albemarle)
990256 State of North Carolina (Raleigh)
990397 Triangle Residential Options for Substance Abusers (Durham)
990339 University of North Carolina at Greensboro (Greensboro)
990555 Wake Forest University (Winston-Salem)

North Dakota

990563 City of Maddock, North Dakota (Maddock)
990005 Grand Forks Public Library (Grand Forks)
990370 Greater Barnes County ITV Consortium (Valley City)
990603 Mayville State University (Mayville)
990505 Turtle Mountain Community College (Belcourt)

Ohio

990694 Children's Hospital of Columbus (Columbus)
990572 City of Akron, Ohio (Akron)
990158 City of Aurora, Ohio (Aurora)
990366 Cleveland Housing Network, Inc. (Cleveland)
990289 Corporation for Ohio Appalachian Development (Athens)
990117 COSI Toledo (Toledo)
990222 Educational Television Association of Metropolitan Cleveland (Cleveland)
990233 Metro Regional Transit Authority (Akron)
990184 Miami Valley Cable Council (Centerville)
990697 Shawnee State University (Portsmouth)
990373 Southern Consortium for Children (Athens)
990518 University of Toledo (Toledo)
990449 Wayne County, Ohio (Wooster)

Oklahoma

990193 Northern Oklahoma College (Tonkawa)
990205 Redlands Community College (El Reno)

Oregon

990317 Blue Mountain Community College (Pendleton)
990330 Intertribal GIS Council, Inc. (Pendleton)
990674 Lane Community College (Eugene)
990660 Lane Council of Governments (Eugene)
990251 Lane County, Oregon (Eugene)
990358 Metro (Portland)
990120 Mid-Columbia Economic Development District (The Dalles)
990646 NetCorps (Eugene)
990309 Northwest Portland Area Indian Health Board (Portland)
990590 ONABEN (Portland)
990076 Oregon Multimedia Institute (Medford)
990125 Portland State University (Portland)
990404 School District Number One (Portland)
990429 South Coast Health Alliance (Reedsport)
990363 Tillamook Bay Community College (Tillamook)

Pennsylvania

990327 Allegeny Heritage Development Corporation (Holidaysburg)
990102 Beaver College (Glenside)
990177 Borough of Jefferson Hills, Pennsylvania (Jefferson Hills)
990441 Cambria County Area Community College (Johnstown)
990174 Children's Hospital of Pittsburgh (Pittsburgh)
990248 City of Philadelphia (Philadelphia)
990656 City of Philadelphia (Philadelphia)
990264 City of Philadelphia (Philadelphia)
990099 Crawford County Regional Alliance (Meadville)
990113 Edinboro University of Pennsylvania (Edinboro)
990642 Fayette County Community Action Agency (Uniontown)
990596 Franklin Institute (Philadelphia)
990349 Keystone Community Network, Inc. (Lock Haven)
990179 Keystone Economic Development Corporation (Johnstown)
990129 King's College (Wilkes-Barre)
990246 Lackawanna County, Pennsylvania (Scranton)
990458 Luzerne County Community College (Nanticoke)
990347 Luzerne County, Pennsylvania (Wilkes-Barre)
990083 North Central Pennsylvania Regional Planning and Development Commission (Ridgway)
990413 Northwest Pennsylvania Regional Planning and Development Commission (Franklin)
990260 Pennsylvania College of Technology (Williamsport)
990296 Pennsylvania State University (University Park)
990556 Philadelphia Commercial Development Corporation (Philadelphia)
990311 Philadelphia Enterprise Center (Philadelphia)
990439 Philadelphia Geriatric Center (Philadelphia)
990201 Pike County, Pennsylvania (Milford)
990378 Please Touch Museum (Philadelphia)
990133 Three Rivers Employment Service, Inc. (Pittsburgh)
990055 Washington County, Pennsylvania (Canonsburg)
990481 Women's Opportunities Resource Center (Philadelphia)

Puerto Rico

990062 City of Cayey, Puerto Rico (Cayey)
990097 Commonwealth of Puerto Rico (San Juan)
990688 Commonwealth of Puerto Rico (San Juan)
990695 Inter American University of Puerto Rico (San Juan)
990138 Organizacion Para el Desarrollo Comunitario de Patillas (Patillas)

Rhode Island

990043 City of Harrisville, Rhode Island (Harrisville)
990433 Providence Plan (Providence)
990282 Town of Coventry, Rhode Island (Coventry)
990324 Town of Lincoln, Rhode Island (Lincoln)
990164 Town of Scituate, Rhode Island (Hope)

South Carolina

990700 Aiken County Emergency Services (Aiken)
990392 Benedict College (Columbia)
990465 Chesterfield-Marlboro Technical College (Cheraw)
990101 Clemson University (Clemson)
990529 Palmetto Baptist Medical Center (Columbia)
990325 State of South Carolina (Columbia)
990165 Technical College of the Lowcountry (Beaufort)
990680 Tri-County Technical College (Pendleton)
990191 Trident Technical College (Charleston)
990536 Voorhees College (Denmark)

South Dakota

990188 Bonesteel-Fairfax School District 26–5 (Bonesteel)
990350 Lake Region Vocational School (Webster)
990021 Mitchell Prehistoric Indian Village Preservation Society (Mitchell)
990659 Sisseton-Wahpeton Sioux Tribe (Agency Village)
990186 Southeast Technical College (Sioux Falls)
990689 Stanley County School District Number 57–1 (Ft. Pierre)
990550 University of South Dakota (Vermillion)

Tennessee

990168 City of Dyersburg, Tennessee (Dyersburg)
990547 Clinch-Powell Resource Conservation and Development Council (Rutledge)
990597 Community Health Cooperative (Newport)
990448 First Tennessee Human Resources Agency (Johnson City)
990703 Justis I, Inc. (Murfreesboro)
990319 McNairy County, Tennessee (Selmer)
990540 Memphis Housing Development Corporation (Memphis)
990048 Montgomery County, Tennessee (Clarksville)
990219 Tennessee State University (Nashville)
990388 United Way of Greater Chattanooga (Chattanooga)
990295 University of Tennessee at Chattanooga (Chattanooga)
990057 University of Tennessee at Knoxville (Knoxville)

Texas

990020 Alamo Area Council of Governments (San Antonio)
990678 American International University, Ltd. (East Bernard)
990453 Capital Area Planning Council (Austin)
990105 Center for Economic Opportunities, Inc. (San Juan)
990467 Centro de Salud Familiar La Fe, Inc. (El Paso)
990025 City of McGregor, Texas (McGregor)
990628 City of San Antonio (San Antonio)
990312 Concho Valley Council of Governments (San Angelo)
990013 Dallas Independent School District (Dallas)
990705 Disability Services of the Southwest (Fort Worth)
990227 Eastfield College (Mesquite)
990639 Houston Education Resource Network (Houston)
990567 InnerCity Community Development Corporation (Dallas)
990479 John C. Ford Program, Inc. (Dallas)
990701 Laredo State Center (Laredo)
990126 Midwestern State University (Wichita Falls)
990124 Our Lady of the Lake University (San Antonio)
990216 Region VII Education Service Center (Kilgore)
990436 Renaissance Cultural Center (Fort Worth)
990134 Rio Grande Valley Empowerment Zone Corporation (Mercedes)
990434 SER-Jobs for Progress National, Inc. (Irving)
990267 South Plains Community Action Association, Inc. (Levelland)
990051 Southwest Regional Communications Center (Duncanville)
990103 State of Texas (Austin)
990232 Texas A & M Research Foundation (College Station)
990214 Texas Mental Health Consumers (Austin)
990371 Texas Water Development Board (Austin)
990451 Texas Workforce Commission (Austin)
990159 Tropical Texas Center for MHMR (Edinburg)
990459 University of Houston-Downtown (Houston)
990447 University of North Texas (Denton)
990461 University of Texas at Arlington (Arlington)
990271 University of Texas at El Paso (El Paso)
990622 University of Texas at San Antonio (San Antonio)
990112 University of Texas at Tyler (Tyler)

Utah

990027 City of Clearfield, Utah (Clearfield)
990019 City of Logan, Utah (Logan)
990131 Davis County, Utah (Farmington)
990249 Sevier River Water Users Association (Delta)
990699 Southeast Education Service Center (Price)
990078 Springville City Corporation (Springville)
990663 Town of Alta, Utah (Alta)
990527 Western Governors University (Salt Lake City)

Vermont

990450 Chittenden Community Television (Burlington)
990472 United Way of Chittenden County (Burlington)
990139 University of Vermont and State Agricultural College (Burlington)

Virgin Islands

990210 Territory of the U.S. Virgin Islands (St. Thomas)
990594 Territory of the U.S. Virgin Islands (St. Thomas)

Virginia

990571 American Muslim Foundation, Inc. (Alexandria)
990421 Boys and Girls Club of Charlottesville (Charlottesville)
990637 Chesterfield County, Virginia (Chesterfield)
990554 City of Newport News, Virginia (Newport News)
990462 City of Norfolk, Virginia (Norfolk)
990537 City of Richmond, Virginia (Richmond)
990599 Colonial Williamsburg Foundation (Williamsburg)
990587 Community Hospital of Roanoke Valley (Roanoke)
990576 Fairfax County Public Library Foundation, Inc. (Fairfax)
990620 Hampton University (Hampton)
990651 Olivet Innovations, Inc. (Petersburg)
990584 Prince William County, Virginia (Prince William)
990668 Rockingham County, Virginia (Harrisonburg)
990661 United Negro College Fund, Inc. (Fairfax)
990588 Virginia Museum of Natural History (Martinsville)
990640 Virginia Polytechnic Institute and State University (Blacksburg)
990263 Westmoreland County, Virginia (Montross)

Washington

990375 Center for Civic Networking, Inc. (Friday Harbor)
990408 City of Seattle (Seattle)
990004 City of Tacoma, Washington (Tacoma)
990331 Health Improvement Partnership of Spokane County (Spokane)
990457 Lummi Indian Nation (Bellingham)
990042 Northwest Intertribal Court System (Edmonds)
990029 Service Corp of Retired Executives (Seattle)
990217 Suquamish Tribe (Suquamish)
990315 Washington Association of Area Agencies on Aging (Olympia)
990181 Washington Literacy (Seattle)
990480 Washington State University at Spokane (Spokane)
990486 Whitman County Hospital District Number 2 (Garfield)
990065 Yakima County, Washington (Yakima)

West Virginia

990033 Alderson-Broaddus College (Philippi)
990328 Campbell-Flannagan-Murrell House, Inc. (Hinton)
990683 Charleston Area Medical Center, Inc. (Charleston)
990528 Marshall University Research Corporation (Huntington)
990046 West Virginia Clearinghouse for Workforce Education (Institute)
990629 West Virginia Network (Morgantown)
990116 West Virginia University (Montgomery)
990234 West Virginia University Research Corporation (Morgantown)
990504 West Virginia Wise, Inc. (Morgantown)
990082 WVHTC Foundation (Fairmont)

Wisconsin

990626 City of Milwaukee, Wisconsin (Milwaukee)
990287 Edgewood High School (Madison)
990058 Northwest Regional Planning Commission (Spooner)
990064 School District of Phelps (Phelps)
990196 Sustainable Racine, Inc. (Racine)
990250 University of Wisconsin at Eau Claire (Eau Claire)
990253 University of Wisconsin System (Milwaukee)
990476 University of Wisconsin System (Madison)
990224 Wisconsin Chiefs of Police Association, Inc. (Shawano)

Wyoming

990666 Laramie County and City of Cheyenne, Wyoming (Cheyenne)
990202 Town of Pine Bluffs, Wyoming (Pine Bluffs)

Bernadette McGuire-Rivera,

Associate Administrator, Office of Telecommunications and Information Applications.

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Friday
April 30, 1999

Part IX

Department of Transportation

Federal Aviation Administration

14 CFR Part 61

Alternative Means of Compliance for the Pilot-In-Command Night Takeoff and Landing Recent Flight Experience Requirements; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 61

[Docket No. FAA–1999–5584; Amendment No. 61–106]

RIN 2120–AG77

Alternative Means of Compliance for the Pilot-In-Command Night Takeoff and Landing Recent Flight Experience Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This final rule establishes an alternative means of compliance for the pilot-in-command (PIC) night takeoff and landing recent flight experience requirements. A pilot who operates more than one type of airplane, certificated for more than one pilot flight crewmember, can meet the PIC night takeoff and landing recent flight experience requirements in one of the types of airplanes he/she operates. The pilot would then be considered qualified to perform night flights in the other types of airplanes he/she operates as PIC. In addition, this new alternative means of compliance establishes certain qualifications, aeronautical experience, and additional training. This action is needed to accommodate pilots employed by corporate operators and airplane manufacturers who operate diverse fleets of airplanes that are type certificated for more than one pilot flight crewmember. These operators and manufacturers require their pilots to meet a high level of aeronautical experience and training for qualification as a PIC. This final rule is intended to provide an additional means of compliance with the recent night flight experience requirements while maintaining an equivalent level of safety.

EFFECTIVE DATE: This final rule is effective on April 30, 1999.

FOR FURTHER INFORMATION CONTACT: John Lynch, Certification Branch, AFS–840, General Aviation and Commercial Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

SUPPLEMENTARY INFORMATION:

Availability of Final Rules

An electronic copy of this document may be downloaded, using a modem and suitable communications software, from the FAA regulations section of the FedWorld electronic bulletin board service (telephone: (703) 321–3339), the Government Printing Office's (GPO) electronic bulletin board service (telephone (202) 512–1661), or, if applicable, the FAA's Aviation Rulemaking Advisory Committee bulletin board service (telephone: (800) 322–2722 or (202) 267–5948).

Internet users may reach the FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the GPO's web page at http://www.access.gpo.gov/nara for access to recently published rulemaking documents.

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the amendment number or docket number of this final rule.

Persons interested in being placed on the mailing list for future rulemaking documents should request from the above office a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) requires the FAA to report inquiries from small entities concerning information on, and advice about, compliance with statutes and regulations within the FAA's jurisdiction, including interpretation and application of the law to specific sets of facts supplied by a small entity.

If your organization is a small entity and you have a question, contact your local FAA official. If you do not know how to contact your local FAA official, you may contact Charlene Brown, Program Analyst Staff, Office of Rulemaking, ARM–27, Federal Aviation Administration, 800 Independence Avenue, S.W, Washington, PC 20591, telephone (888) 551–1594. Internet users can find additional information on SBREFA in the ''Quick Jump'' section of the FAA's web page at http://www.Faa.gov and may send electronic inquiries to the following internet address: 9–AWA–SBREFA@Faa.gov.

Background

Statement of the Problem

The FAA has received numerous comments from corporate operators and airplane manufacturers on the requirements for PIC night takeoff and landing recent flight experience. Many of the comments disagreed with the requirement that aircraft of the same category, class, and type (if a rating is required), be used to perform mandatory night takeoffs and landings. They argue that the requirement to perform required takeoffs and landings in an aircraft of the same type (if a type rating is required) for all types of aircraft in the same category and class is not cost effective and provides an unnecessary burden on their pilots. The commenters requested that an alternative means of compliance for this requirement be granted for their pilots, taking into consideration the aircraft their pilots operate, their pilots' high level of aeronautical experience,and the additional training required of their pilots.

History

On April 4, 1997, the FAA amended 14 CFR part 61 (62 FR 16220), which became effective on August 4, 1997. In this amendment, 61.57(b) (14 CFR 61.57(b)) was revised to require that PIC night takeoffs and landing recent flight experience requirements be performed in not only the same category and class of aircraft but also the same type (if a type rating is required). Since the issuance of this amendment, the FAA has received many comments from corporate operators, airplane manufacturers, and the National Business Aircraft Association, Inc. Many of these commenters argue that they were not given adequate notice to the above amendment. While adequate notice and comment period was provided, the amendment was part of a large rulemaking project and easily could have been overlooked by the commenters.

The commenters state that requiring PIC night takeoff and landing recent flight experience to be in the same type of airplane (if a type rating is required), beyond the same category and class, is a burdensome requirement for their pilots. They argue that their pilots are very experienced and maintain type ratings for several models of airplanes within the same category and class. Furthermore, differences between types of turbojet aircraft are minimal, and the requirement that their pilots meet PIC night recent flight experience requirements in each type is an economic burden. They argue that to do touch and goes in turbojet aircraft is very costly, and as such, that maintaining night takeoff and landing currency is one type, category and class of aircraft should be sufficient for all types of turbojet aircraft. Additionally, they argue that during the summer months, when there are fewer hours of darkness, it is very difficult for their pilots to meet the night takeoff and

landing requirement in all the different types, but same category and class of aircraft they operate. finally, the commenters argue that the current requirement to perform night takeoffs and landings in all the types of turbojet aircraft they operate has the potential of increasing air traffic congestion and noise pollution.

As a result, these corporate operators and airplane manufacturers has asked the FAA to provide an alternative means of compliance to the PIC night takeoff and landing recent flight experience requirements for their pilots. They believe that their pilots should be allowed to meet the PIC night takeoff and landing recent flight experience requirements for all types of aircraft in the same category and class, once they have met this requirement in one type of aircraft in the same category and class.

On February 3, 1999, the FAA issued a grant of exemption to Gulfstream Aerospace Corporation (Gulfstream) from the PIC night takeoff and landing recent flight experience requirements based on the arguments described above. This grant of exemption gave Gulfstream pilots an alternative means of compliance to the night currency requirements, based on an earlier grant of exemption to the Boeing Commercial Airplane Group. After issuing this grant of exemption, the FAA received similar requests from other corporate operators and airplane manufacturers, which were denied. upon further review, the FAA has determined that this issue needs to be resolved through rulemaking and not through additional grants of exemption.

Accordingly, the FAA has determined that the alternative means of compliance for the PIC night takeoff and landing recent flight experience requirements granted to Gulfstream's PICs, also applies to other PICs who operate various types of airplanes requiring more than one pilot flight crewmember by the airplane's type certificate.

Alternative Means of Compliance

The final rule revises § 61.57 by adding a new paragraph (e)(3), which establishes an alternative means of compliance to the PIC night takeoff and landing recent flight experience requirements. this final rule neither lesson nor adds requirements to the present PIC night takeoff and landing currency requirement of § 61.57(b), but merely provides another alternative means for remaining current in night takeoffs and landings.

For years the FAA has permitted pilots who are employed by a certificate holder under 14 CFR parts 121, 125 or 135 an alternative means of compliance for the night takeoff and landing recent flight experience requirements of § 61.57(b). As previously mentioned, the FAA has issued grants of exemption that permit pilots employed by some corporate operators or as test pilots for some airplane manufacturers, an alternative means of compliance from the night takeoff and landing currency requirements of § 61.57(b).

In this final rule, a PIC who operates more than one type of an airplane, that is type certificated for more than one pilot flight crewmember, may meet the PIC night takeoff and landing recent flight experience requirements under the current requirements of § 61.57(b) or under this alternative. This alternative states that a pilot, who operates more than one type of airplane that is type certificated for more than one pilot flight crewmember, meets the PIC night takeoff and landing recent flight experience requirements for all of the different types of airplanes provided the pilot—

(i) Holds at least a valid commercial pilot certificate with the appropriate type rating for each airplane that the pilot seeks to operate under this alternative;

(ii) Has logged at least 1500 hours total time as a pilot;

(iii) Has accomplished at least 15 hours of flight time in the type of airplane that the pilot seeks to operate under this alternative within the preceding 90 days prior to the operation of that airplane; and

(iv) Has accomplished—

(A) At least three takeoffs and three landings to a full stop, during the period beginning 1 hour after sunset and ending 1 hour before sunrise as the sole manipulator of the flight controls in at least one of the types of airplanes that the pilot seeks to operate under this alternative, within the preceding 90 days prior to the operation of any of the types of airplanes that the pilot seeks to operate under this alternative; or

(B) Completion of an approved training program under part 142 of this chapter within the preceding 12 calendar months prior to the month of the flight, which requires the performance of at least 6 takeoffs and 6 landings to a full stop as the sole manipulator of the controls in a flight simulator that is representative of at least one of the types of airplanes that the pilot seeks to operate under this alternative, and the flight simulator's visual system was adjusted to represent the period beginning 1 hour after sunset and ending 1 hour before sunrise.

The FAA anticipates that this final rule will apply primarily to pilots employed by corporate operators and airplane manufacturers of turbine powered and large airplanes that require more than one pilot crewmember by the airplane's type certification requirements. For example, business jets such as some CE–500 series jets, Learjets, operators of DC–3's, Martin–404's, DC–6's, DC–7's, and various other part 25 transport category airplanes.

Good Cause for Immediate Adoption

Sections 553(b)(3)(B) and 553(d)(3) of the Administrative Procedures Act (APA)(5 U.S.C. Sections 553(b)(3)(B) and 553(d)(3)) authorize agencies to dispense with certain notice procedures for rules when they find ''good cause'' to do so. Under section 553(b)(3)(B), the requirements of notice and opportunity for comment do not apply when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Section 553(d)(3) allows an agency, upon finding good cause, to make a rule effective immediately, thereby avoiding the 30-day delayed effective date requirement in section 553.

The FAA finds that notice and public comment to this final rule are impracticable, unnecessary, and contrary to the public interest. The provisions in this final rule provide an alternative means of compliance with the PIC night takeoff and landing recent flight experience requirements. This alternative means of compliance is applicable only to those PICs who fly two or more types of airplanes that require more than one pilot flight crewmember by the airplane's type certificate. However, these PICs still have the option to either meet the existing PIC night takeoff and landing recent flight experience requirements of § 61.57(b) or they can choose to comply with this alternative PIC night takeoff and landing provision. The FAA has determined that the addition of this alternative means of compliance will not have an adverse effect on PIC night takeoffs and landing proficiency. Furthermore, the requirements for the alternative means of compliance for PIC night takeoff and landing recency will not have an adverse effect on safety since they are equivalent in content and substance to the existing PIC night takeoff and landing recent flight experience requirements listed in § 61.57(b). The FAA has determined that notice and public comment are unnecessary since this rule is in the public interest and has no safety implications.

In addition, the FAA has determined that compliance with this alternative means of PIC night takeoff and landing

recent flight experience requirements is needed immediately, so as to relieve a burdensome and costly requirement for corporate operators, airplane manufacturers, and the pilots they employ. As discussed earlier, the FAA has granted exemptions previously, providing an alternative means of compliance for PIC night takeoff and landing recent flight experience requirements. These petitions for exemption were published in the **Federal Register**, and received no comments. Therefore, the FAA has determined notice and comment on this amendment to be unnecessary.

Paperwork Reduction Act Approval

Information collection requirements in the amendments to § 61.57 previously have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), and have been assigned OMB Control Number 2120–0021.

Compatibility With ICAO Standards

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

Economic Summary

Four principal requirements pertain to the economic impacts of changes to the Federal Regulations. First, Executive Order 12866 directs Federal agencies to promulgate new regulations or modify existing regulations after consideration of the expected benefits to society and the expected costs. The order also requires Federal agencies to assess whether a final rule is considered a ''significant regulatory action.'' Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. Finally, Public Law 194–4, Department of Transportation Appropriations Act (November 15, 1995), requires Federal agencies to assess the impact of any Federal mandates on State, Local, Tribal governments, and the private sector.

In conducting these analyses, the FAA has determined that this rule will be cost beneficial, and is not ''significant'' as defined under section 3(f) of Executive Order 12866 and Department of Transportation (DOT) policies and procedures (44 FR 11034, February 26, 1979). In addition, under the Regulatory Flexibility Determination, the FAA certifies that this proposal will not have a significant impact on a substantial number of small entities. Furthermore, this proposal will not impose restraints on international trade. Finally, the FAA has determined that the proposal will not impose a Federal mandate on State, Local, or Tribal governments, or the private sector of $100 million per year. These analyses are summarized below.

Executive Order 12866 and DOT's Policies and Procedures

Under Executive Order 12866, each Federal agency shall assess both the costs and the benefits of final regulations while recognizing that some costs and benefits are difficult to quantify. A final rule is promulgated only upon a reasoned determination that the benefits of the final rule justify costs.

The FAA's analysis of this final rule indicates that this amendment to part 61 will generally have a beneficial impact to corporate operators and airplane manufacturers that operate several different types of airplanes that are type certificated for more than one pilot flight crewmember and the pilots they employ. This final rule provides an alternative means of compliance for PICs to maintain night takeoff and landing currency. This alternative means for PICs to maintain their night take off and landing currency in all of the types of airplanes they operate will be permitted, provided the pilot meets the following:

(i) Holds at least a valid commercial pilot certificate with the appropriate type rating for each airplane that the pilot seeks to operate under this alternative;

(ii) Has logged at least 1,500 hours total time as a pilot;

(iii) Has accomplished at least 15 hours of flight time in the type of airplane that the pilot seeks to operate under this alternative within the preceding 90 days prior to the operation of that airplane; and

(iv) Has accomplished at least—

(A) three takeoffs and three landings to a full stop, during the period beginning 1 hour after sunset and ending 1 hour before sunrise as the sole manipulator of the flight controls in at least one of the types of airplanes that the pilot seeks to operate under this alternative, within the preceding 90 days prior to the operation of any of the types of airplanes that the pilot seeks to operate under this alternative; or

(B) completion of an approved training program under part 142 of this chapter within the preceding 12 calendar months prior to the month of the flight, which requires the performance or at least six takeoffs and six landings to a full stop as the sole manipulator of the controls in a flight simulator that is representative of at least one of the types of airplanes that the pilot seeks to operate under this alternative, and its visual system is adjusted to represent the period beginning 1 hour after sunset and ending 1 hour before sunrise.

One of the major benefits to permitting this alternative means of compliance is that it will permit operators with multiple airplanes, that are type certificated for more than one pilot flight crewmember, to save on the costs of requiring their pilots to remain current in the pilot-in-command night takeoff and landing recent flight experience requirements in all of the operator's different types of airplanes. This benefit will provide cost savings on personnel, fuel, and maintenance on items such as wheel brakes, thrust reversers, and tires.

Additional benefits of this final rule include the following: the reduction in pilot and controller workload, which should reduce the chances for procedural errors; the reduction in training accidents and incidents; the reduction in noise for the surrounding communities; and reduction in air pollution; and the reduction in air traffic congestion and training costs. Finally, the FAA has determined that this alternative means of compliance will not diminish safety in any manner. Pilots who are eligible to take advantage of this alternative means of compliance must meet higher commercial experience requirements and other additional currency requirements.

The FAA has determined that there are no costs associated with complying with these alternative requirements since PICs will have the option to meet either the existing night takeoff and landing requirements in § 61.57(b) or they may comply with this alternative. The FAA has concluded that this final rule is cost beneficial.

Final Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (the Act) establishes ''as principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and information requirements to the scale of the

business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that and to explain the rationale for their actions, the Act covers a wide range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a Regulatory Flexibility Analysis (RFA) as described in the Act. If an agency determines, however, that a final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 Act provides that the head of the agency may so certify and an RFA is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA conducted the required review of this final rule and determined that it will not have a significant economic impact on a substantial number of small entities. Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the FAA certifies that this rule will not have a significant economic impact on a substantial number of small entities because the final rule imposes no additional cost on small entities. Small entities and their PICs will also benefit from this final rule, because they also have the choice to either comply with the existing PIC night takeoff and landing currency of paragraph (b) of § 61.57 or they can choose to operate under this new alternative means of compliance for meeting the night takeoffs and landings currency.

International Trade Impact Statement

The FAA has determined that the final rule will neither affect the sale of aviation products and services in the United States or the sale of U.S. products and services in foreign countries.

Federalism Implications

The regulation herein will not have a substantial 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. Therefore, in accordance with Executive Order 12612, it is determined that this rule will not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in an agency final rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year.

Section 204(a) of the Reform Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local and tribal governments on a proposed ''significant intergovernmental mandate.'' A ''significant intergovernmental mandate'' under the Act is any provision in a Federal agency regulation that will impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year.

Section 203 of the Reform Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This rule does not contain a Federal intergovernmental or private sector mandate that exceeds $100 million a year, therefore the requirements of the Reform Act do not apply.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental assessment or environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), regulations, standards and exemptions (excluding those, which if implemented may cause a significant impact on the human environment) qualify for a categorical exclusion. The FAA proposes that this rule qualifies for a categorical exclusion because no significant impacts to the environment are expected to result from its finalization or implementation.

Energy Impact

The energy impact of the proposed rule has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) and Public Law 94–163, as amended (42 U.S.C. 6362). It has been determined that it is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 14 CFR Part 61

Aircraft, Airmen, Recreation and recreation areas, reporting and recordkeeping requirements.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 61 of Chapter I of Title 14, Code of Federal Regulations as follows:

PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

1. The authority citation of part 61 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45303.

2. Section 61.57 is amended by adding a new paragraph (e)(3) to read as follows:

§ 61.57 Recent flight experience: Pilot in command.

* * * * *

(e) * * *

(3) Paragraph (b) of this section does not apply to a pilot in command who operates more than one type of an airplane that is type certificated for more than one pilot flight crewmember, provided the pilot—

(i) Holds at least a valid commercial pilot certificate with the appropriate type rating for each airplane that the pilot seeks to operate under this alternative;

(ii) Has logged at least 1500 hours total time as a pilot;

(iii) Has accomplished at least 15 hours of flight time in the type of airplane that the pilot seeks to operate under this alternative within the preceding 90 days prior to the operation of that airplane; and

(iv) Has accomplished—

(A) At least three takeoffs and three landings to a full stop, during the period beginning 1 hour after sunset and ending 1 hour before sunrise as the sole manipulator of the flight controls in at least one of the types of airplanes that the pilot seeks to operate under this alternative, within the preceding 90 days prior to the operation of any of the types of airplanes that the pilot seeks to operate under this alternative; or

(B) Completion of an approved training program under part 142 of this chapter within the preceding 12 calendar months prior to the month of

the flight, which requires the performance of at least 6 takeoffs and 6 landings to a full stop as the sole manipulator of the controls in a flight simulator that is representative of at least one of the types of airplanes that the pilot seeks to operate under this alternative, and the flight simulator's visual system was adjusted to represent the period beginning 1 hour after sunset and ending 1 hour before sunrise.

Issued in Washington, DC, on April 22, 1999.

Jane F. Garvey,

Administrator.

[FR Doc. 99–10850 Filed 4–29–99; 8:45 am]

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The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 440/P.L. 106–22

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