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Friday
July 9, 1999

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Presidential Documents

Title 3—

The President

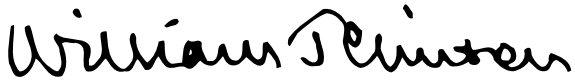
Presidential Determination No. 99–31 of June 30, 1999

Eligibility of the Organization for Security and Cooperation in Europe to be Furnished Defense Articles and Services Under the Foreign Assistance Act and the Arms Export Control Act

Memorandum for the Secretary of State

Pursuant to the authority vested in me by section 503(a) of the Foreign Assistance Act of 1961, as amended, section 3(a)(1) of the Arms Export Control Act, and section 422 of the Foreign Relations Authorization Act for Fiscal Years 1994 and 1995 (as implemented by Executive Order 13029 of December 3, 1996), I hereby find that the furnishing of defense articles and services to the Organization for Security and Cooperation in Europe will strengthen the security of the United States and promote world peace.

You are authorized and directed to report this finding to the Congress and to publish it in the **Federal Register.**



[FR Doc. 99–17595
Filed 7–8–99; 8:45 am]
Billing code 4710–10–M

Presidential Documents

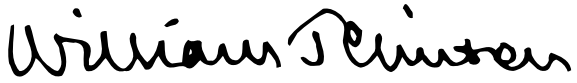
Presidential Determination No. 99–32 of July 1, 1999

Military Drawdown for Tunisia

Memorandum for the Secretary of State, [and] the Secretary of Defense

Pursuant to the authority vested in me by the Constitution and laws of the United States, including Title III (Foreign Military Financing) of the Foreign Operations, Exporting Financing, and Related Programs Appropriations Act, 1999, as enacted in Public Law 105–277 (Title III), I hereby direct the drawdown of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training of an aggregate value of $5 million for Tunisia, consistent with the authority provided under Title III, for the purposes of part II of the Foreign Assistance Act of 1961.

The Secretary of State is authorized and directed to report this determination to the Congress and to publish it in the **Federal Register.**



[FR Doc. 99–17596
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Billing code 4710–10–M

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Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 153, 157, 284, 275, 290, and 385

[Docket No. RM98–9–000; Order No. 603]

Revision of Existing Regulations Under Part 157 and Related Sections of the Commission's Regulations Under the Natural Gas Act

Issued April 9, 1999.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects regulatory text in the final rule published in the **Federal Register** on May 14, 1999, regarding governing the filing of applications for construction and operation of facilities or service under Section 7 of the Natural Gas Act.

DATES: Effective on July 9, 1999.

FOR FURTHER INFORMATION CONTACT:
Michael J. McGehee, Office of Pipeline Regulation, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, (202) 208–2257
Carolyn Van Der Jagt, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 (202) 208–2246

Correction

In the final rule beginning at 64 FR 26572, on page 26606, in the issue of May 14, 1999, instruction 25 is corrected to read:

25. In § 157.202, paragraph (b)(2)(ii)(G) is removed; paragraph (b)(2)(ii)(F) is redesignated as paragraph (b)(2)(ii)(G) and a new paragraph (b)(2)(ii)(F) is added; paragraphs (b)(2)(i) and (ii)(A), (B), (C), (D), and (E) and paragraphs (b) (4), (5), (6), (7), (10), and (12) are revised and (b) (13) and (14) are removed to read as follows:

On page 26621, column 3, instruction number 58 and the CFR text following it are corrected to read as follows:

58. In § 385.2001, paragraph (a)(1)(ii) and (b)(3) are revised to read as follows:

§ 385.2001 Filings (Rule 2001)

(a) * * *

(1) * * *

(ii) Hand delivering the documents to Room 1A, 888 First Street, N.E., Washington, D.C.

* * * * *

(b) * * *

(3) The Secretary, or the office director to whom the filing has been referred, will send a letter of rejection with an indication of the deficiencies in the filing and the reason for the rejection.

* * * * *

David P. Boergers,

Secretary.

[FR Doc. 99–17254 Filed 7–8–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8476]

RIN 1545–AR05; 1545–AP09

Arbitrage Restrictions on Tax-Exempt Bonds; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to final regulations (TD 8476) which were published in the **Federal Register** on Friday, June 18, 1993 (58 FR 33510), relating to the arbitrage and related restrictions applicable to tax-exempt bonds issued by States and local governments.

DATES: This correction is effective December 30, 1998.

FOR FURTHER INFORMATION CONTACT:
David White, (202) 622–3980 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections are under section 148 of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 8476) contain errors which may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

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 1.148–11 is amended by adding paragraphs (b)(4), (h) and (i) to read as follows:

§ 1.148–11 Effective dates.

* * * * *

(b) * * *

(4) *No elective retroactive application for safe harbor for establishing fair market value for guaranteed investment contracts and investments purchased for a yield restricted defeasance escrow.* The provisions of §§ 1.148–5(d)(6)(iii) (relating to the safe harbor for establishing fair market value of guaranteed investment contracts and yield restricted defeasance escrow investments) and 1.148–5(e)(2)(iv) (relating to a special rule for yield restricted defeasance escrow investments) may not be applied to any bond sold before December 30, 1998.

* * * * *

(h) *Safe harbor for establishing fair market value for guaranteed investment contracts and investments purchased for a yield restricted defeasance escrow.* The provisions of § 1.148–5(d)(6)(iii) are applicable to bonds sold on or after March 1, 1999. Issuers may apply these provisions to bonds sold on or after December 30, 1998, and before March 1, 1999.

(i) *Special rule for investments purchased for a yield restricted defeasance escrow.* The provisions of § 1.148–5(e)(2)(iv) are applicable to bonds sold on or after March 1, 1999. Issuers may apply these provisions to

bonds sold on or after December 30, 1998, and before March 1, 1999.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 99–17297 Filed 7–8–99;8:45am]

BILLLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Parts 0 and 600

[A.G. Order No. 2232–99]

Office of Special Counsel

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order amends the Code of Federal Regulations to provide regulations concerning Attorney General appointment of Special Counsel to investigate and, when appropriate, to prosecute matters when the Attorney General concludes that extraordinary circumstances exist such that the public interest would be served by removing a large degree of responsibility for a matter from the Department of Justice. These regulations replace the procedures for appointment of independent counsel pursuant to the Independent Counsel Reauthorization Act of 1994.

EFFECTIVE DATES: July 1, 1999.

FOR FURTHER INFORMATION CONTACT: John C. Keeney, Deputy Assistant Attorney General, Criminal Division, U.S. Department of Justice, Washington, D.C. 20530, (202) 514–2621.

SUPPLEMENTARY INFORMATION:

Background

The Attorney General is promulgating these regulations to replace the procedures set out in the Independent Counsel Reauthorization Act of 1994. These regulations seek to strike a balance between independence and accountability in certain sensitive investigations, recognizing that there is no perfect solution to the problem. The balance struck is one of day-to-day independence, with a Special Counsel appointed to investigate and, if appropriate, prosecute matters when the Attorney General concludes that extraordinary circumstances exist such that the public interest would be served by removing a large degree of responsibility for the matter from the Department of Justice. The Special Counsel would be free to structure the investigation as he or she wishes and to exercise independent prosecutorial discretion to decide whether charges should be brought, within the context of the established procedures of the Department. Nevertheless, it is intended that ultimate responsibility for the matter and how it is handled will continue to rest with the Attorney General (or the Acting Attorney General if the Attorney General is personally recused in the matter); thus, the regulations explicitly acknowledge the possibility of review of specific decisions reached by the Special Counsel.

The regulations also remove § 0.14, setting forth procedures for Special Independent Counsels for members of Congress. The regulations in that section have been suspended since April 19, 1989. 54 FR 15752.

Section-by-Section Discussion

Section 600.1 Grounds for Appointing a Special Counsel

''The Attorney General, or in cases in which the Attorney General is recused, the Acting Attorney General, will appoint a Special Counsel when he or she determines that criminal investigation of a person or matter is warranted and—

(a) That investigation or prosecution of that person or matter by a United States Attorney's Office or litigating Division of the Department of Justice would present a conflict of interest for the Department or other extraordinary circumstances; and

(b) That under the circumstances, it would be in the public interest to appoint an outside Special Counsel to assume responsibility for the matter.''

Section 600.2 Alternatives Available to the Attorney General

''When matters are brought to the attention of the Attorney General that might warrant consideration of appointment of a Special Counsel, the Attorney General may:

(a) Appoint a Special Counsel;

(b) Direct that an initial investigation, consisting of such factual inquiry or legal research as the Attorney General deems appropriate, be conducted in order to better inform the decision; or

(c) Conclude that under the circumstances of the matter, the public interest would not be served by removing the investigation from the normal processes of the Department, and that the appropriate component of the Department should handle the matter. If the Attorney General reaches this conclusion, he or she may direct that appropriate steps be taken to mitigate any conflicts of interest, such as recusal of particular officials.''

Discussion

There are occasions when the facts create a conflict so substantial, or the exigencies of the situation are such that any initial investigation might taint the subsequent investigation, so that it is appropriate for the Attorney General to immediately appoint a Special Counsel. In other situations, some initial investigation, whether factual or legal, may be appropriate to better inform the Attorney General's decision. This provision is intended to make it clear that a variety of approaches, even in cases that might create an apparent conflict of interest, may be appropriate, depending on the facts of the matter.

Section 600.3 Qualifications of the Special Counsel

''(a) An individual named as Special Counsel shall be a lawyer with a reputation for integrity and impartial decisionmaking, and with appropriate experience to ensure both that the investigation will be conducted ably, expeditiously and thoroughly, and that investigative and prosecutorial decisions will be supported by an informed understanding of the criminal law and Department of Justice policies. The Special Counsel shall be selected from outside the United States Government. Special Counsels shall agree that their responsibilities as Special Counsel shall take first precedence in their professional lives, and that it may be necessary to devote their full time to the investigation, depending on its complexity and the stage of the investigation.

''(b) The Attorney General shall consult with the Assistant Attorney General for Administration to ensure an appropriate method of appointment, and to ensure that a Special Counsel undergoes an appropriate background investigation and a detailed review of ethics and conflicts of interest issues. A Special Counsel shall be appointed as a 'confidential employee' as defined in 5 U.S.C. 7511(b)(2)(C).''

Section 600.4 Jurisdiction

''(a) *Original Jurisdiction.* The jurisdiction of a Special Counsel shall be established by the Attorney General. The Special Counsel will be provided with a specific factual statement of the matter to be investigated. The jurisdiction of a Special Counsel shall also include the authority to investigate and prosecute federal crimes committed in the course of, and with intent to interfere with, the Special Counsel's investigation, such as perjury, obstruction of justice, destruction of evidence, and intimidation of witnesses;

and to conduct appeals arising out of the matter being investigated and/or prosecuted.

''(b) *Additional Jurisdiction.* If in the course of his or her investigation the Special Counsel concludes that additional jurisdiction beyond that specified in his or her original jurisdiction is necessary in order to fully investigate and resolve the matters assigned, or to investigate new matters that come to light in the course of his or her investigation, he or she shall consult with the Attorney General, who will determine whether to include the additional matters within the Special Counsel's jurisdiction or assign them elsewhere.''

Discussion

Under these regulations, it is intended that a Special Counsel's jurisdiction will be stated as an investigation of specific facts. The regulations also recognize, however, that accommodations can be made as necessary throughout the course of the investigation, with the Attorney General's approval. This provision establishes a protocol whereby Special Counsels are provided with an appropriate description of the boundaries of their investigation, with the full recognition that adjustments to that jurisdiction may be required.

Paragraph (b) establishes a single procedure through which a variety of different jurisdictional issues can be resolved. For example, a Special Counsel assigned responsibility for an alleged false statement about a government program may request additional jurisdiction to investigate allegations of misconduct with respect to the administration of that program; a Special Counsel may conclude that investigating otherwise unrelated allegations against a central witness in the matter is necessary to obtain cooperation; or a Special Counsel may come across evidence of additional, unrelated crimes by targets of his or her investigation. Rather than leaving the issue to argument and misunderstanding as to whether the new matters are included within a vague category of ''related matters,'' the regulations clarify that the decision as to which component would handle such new matters would be made by the Attorney General. The Special Counsel would report such matters to the Attorney General, and the Attorney General would decide whether to grant the Special Counsel jurisdiction over the additional matters.

''(c) *Civil and Administrative Jurisdiction.* If in the course of his or her investigation the Special Counsel determines that administrative remedies, civil sanctions or other governmental action outside the criminal justice system might be appropriate, he or she shall consult with the Attorney General with respect to the appropriate component to take any necessary action. A Special Counsel shall not have civil or administrative authority unless specifically granted such jurisdiction by the Attorney General.''

Discussion

Paragraph (c) is intended to clarify that the Special Counsel's jurisdiction will cover only the criminal aspects of the matters within his or her jurisdiction, unless other jurisdiction is specifically granted by the Attorney General.

Section 600.5 Staff

''A Special Counsel may request the assignment of appropriate Department employees to assist the Special Counsel. The Department shall gather and provide the Special Counsel with the names and resumes of appropriate personnel available for detail. The Special Counsel may also request the detail of specific employees, and the office for which the designated employee works shall make reasonable efforts to accommodate the request. The Special Counsel shall assign the duties and supervise the work of such employees while they are assigned to the Special Counsel. If necessary, the Special Counsel may request that additional personnel be hired or assigned from outside the Department. All personnel in the Department shall cooperate to the fullest extent possible with the Special Counsel.''

Discussion

This provision, providing for the assignment of appropriate personnel to assist the Special Counsel, also includes assignment of needed investigative resources from the Federal Bureau of Investigation. It is anticipated that most personnel will be Department of Justice employees provided by detail to the Special Counsel, although the regulation provides for additional employment from outside the Department when necessary.

Section 600.6 Powers and Authority

''Subject to the limitations in the following paragraphs, the Special Counsel shall exercise, within the scope of his or her jurisdiction, the full power and independent authority to exercise all investigative and prosecutorial functions of any United States Attorney. Except as provided in this part, the Special Counsel shall determine whether and to what extent to inform or consult with the Attorney General or others within the Department about the conduct of his or her duties and responsibilities.''

Section 600.7 Conduct and Accountability

''(a) A Special Counsel shall comply with the rules, regulations, procedures, practices and policies of the Department of Justice. He or she shall consult with appropriate offices within the Department for guidance with respect to established practices, policies and procedures of the Department, including ethics and security regulations and procedures. Should the Special Counsel conclude that the extraordinary circumstances of any particular decision would render compliance with required review and approval procedures by the designated Departmental component inappropriate, he or she may consult directly with the Attorney General.''

Discussion

Review and approval procedures are the way in which the Department typically addresses the most sensitive legal and policy issues facing its prosecutors. Such matters are usually not dealt with by mandatory substantive rules; rather, the Department recognizes that even the most controversial and risky investigative or prosecutorial steps might in extraordinary circumstances be justified. Therefore, such issues are generally handled by requiring a variety of levels of review and approval before the step can be taken. Were Special Counsels to be exempt from these procedural requirements, they would be left without relevant controls and without Departmental guidance in the most sensitive situations.

There are often sound institutional reasons for review and approval provisions that transcend the merits of any particular case. For example, the Department has concluded over time that the long-term interests in case law development, served by the requirement that the Solicitor General personally approve Departmental appeals, may outweigh the importance of any single prosecution. Finally, requiring compliance with review and approval procedures ensures that the Department's institutional judgment will be available to inform the Special Counsel's decisionmaking process in the particular case.

This provision therefore will allow a wide range of independent decisionmaking by the Special Counsel, while at the same time it will help to guard against a Special Counsel becoming too insulated and narrow in

his or her view of the matter under investigation. Most review and approval procedures are conducted by and through long-term career Departmental officials with substantial and invaluable institutional memory and historical perspective.

At the same time, this provision permits the Special Counsel in extraordinary circumstances to proceed without complying with the Department's required review and approval procedures by consulting with the Attorney General. This provides a substantial degree of independent decisionmaking to the Special Counsel, while enhancing his or her accountability for the decision. Should the Special Counsel determine that the extraordinary circumstances of a particular decision make it inappropriate to comply with the established rules, regulations, procedures, practices and policies of the Department, the review and approval process may be bypassed through direct consultation with the Attorney General.

''(b) The Special Counsel shall not be subject to the day-to-day supervision of any official of the Department. However, the Attorney General may request that the Special Counsel provide an explanation for any investigative or prosecutorial step, and may after review conclude that the action is so inappropriate or unwarranted under established Departmental practices that it should not be pursued. In conducting that review, the Attorney General will give great weight to the views of the Special Counsel. If the Attorney General concludes that a proposed action by a Special Counsel should not be pursued, the Attorney General shall notify Congress as specified in § 600.9(a)(3).''

Discussion

Paragraph (b) permits the Attorney General to determine, after a review in which substantial deference is given to the views of the Special Counsel, that an action is so inappropriate or unwarranted under established Departmental practices that it should not be pursued.

''(c) The Special Counsel and staff shall be subject to disciplinary action for misconduct and breach of ethical duties under the same standards and to the same extent as are other employees of the Department of Justice. Inquiries into such matters shall be handled through the appropriate office of the Department upon the approval of the Attorney General.

(d) The Special Counsel may be disciplined or removed from office only by the personal action of the Attorney General. The Attorney General may remove a Special Counsel for misconduct, dereliction of duty, incapacity, conflict of interest, or for other good cause, including violation of Departmental policies. The Attorney General shall inform the Special Counsel in writing of the specific reason for his or her removal.''

Discussion

Paragraphs (c) and (d) provide protection for a Special Counsel by providing that the Attorney General may remove the Special Counsel only for good cause, several examples of which are provided in the regulation. Violation of Departmental policies is specifically identified as a ground that may warrant removal. The willful violation of some policies might warrant removal or other disciplinary action, and a series of negligent or careless overlooking of important policies might similarly warrant removal or other disciplinary action. Such conduct also would be encompassed within the articulated standard of misconduct or dereliction of duty. There are, of course, other violations of Departmental policies and guidelines that would not ordinarily be grounds for removal or other disciplinary action.

Section 600.8 Notification and Reports by the Special Counsel

''(a) *Budget.* (1) A Special Counsel shall be provided all appropriate resources by the Department of Justice. Within the first 60 days of his or her appointment, the Special Counsel shall develop a proposed budget for the current fiscal year with the assistance of the Justice Management Division for the Attorney General's review and approval. Based on the proposal, the Attorney General shall establish a budget for the operations of the Special Counsel. The budget shall include a request for assignment of personnel, with a description of the qualifications needed.

(2) Thereafter, 90 days before the beginning of each fiscal year, the Special Counsel shall report to the Attorney General the status of the investigation, and provide a budget request for the following year. The Attorney General shall determine whether the investigation should continue and, if so, establish the budget for the next year.''

Discussion

The annual report to the Attorney General and budget request for the coming year will help to ensure that a Special Counsel investigation does not continue indefinitely; it will be reviewed at least annually to determine whether the investigation should continue, or whether it has reached a point where it should be closed or where responsibility for the matter can be returned to the normal processes of the Department. This annual review will provide an opportunity for the Special Counsel to present his or her budget request for the upcoming year as well. It should be emphasized that this annual report is intended to be only a status report. The Special Counsel will not be subject to the day-to-day supervision of the Attorney General or any other Departmental official, and the annual report will not serve as a vehicle for ongoing supervision. Rather, the Attorney General will use the report to determine whether the investigation should continue, and what the budget for the coming year should be. For example, there may be no need for the Special Counsel to remain in office to handle final details, such as a routine appeal following a conviction.

''(b) *Notification of Significant Events.* The Special Counsel shall notify the Attorney General of events in the course of his or her investigation in conformity with the Departmental guidelines with respect to Urgent Reports.''

Discussion

Paragraph (b) requires Special Counsels to notify the Attorney General in certain circumstances. Those circumstances are defined using the same standard as that governing United States Attorneys, who are required to notify the Attorney General or other Department officials before seeking an indictment in sensitive cases and at other significant investigative steps. A Special Counsel will be dealing with issues that are sensitive, with many possible repercussions, and experience has shown that such prosecutions are often as sensitive legally as they are politically. Given this sensitivity, notification of proposed indictments and other significant events in the course of the investigation, with the resulting opportunity for consultation, is a critical part of the mechanism through which the Attorney General can discharge his or her responsibilities with respect to the investigation.

''(c) *Closing Documentation.* At the conclusion of the Special Counsel's work, he or she shall provide the Attorney General with a confidential report explaining the prosecution or declination decisions reached by the Special Counsel.''

Discussion

Much legitimate concern has been expressed about the Final Report requirement of the Independent Counsel Act, with respect to both the incentives

it creates to over-investigate a matter and the fact that, since it often becomes a public document, it can do harm to legitimate privacy interests. On the other hand, it is appropriate for any federal official to provide a written record upon completion of an assignment, both for historical purposes and to enhance accountability—particularly a federal official who has functioned with substantial independence and little supervision. In major cases, federal prosecutors commonly document their decisions not to pursue a case, explaining the factual and legal reasons for the conclusions they have reached.

The principal source of the problems with the Final Report requirement as set forth in the Independent Counsel Act is the fact that the Report typically has been made public, unlike the closing documentation of any other criminal investigation. This single fact both provides an incentive to over-investigate, in order to avoid potential public criticism for not having turned over every stone, and creates potential harm to individual privacy interests.

Therefore, these regulations impose a limited reporting requirement on all Special Counsels, in the form of a summary final report to the Attorney General. This report will be handled as a confidential document, as are internal documents relating to any federal criminal investigation. The interests of the public in being informed of and understanding the reasons for the actions of the Special Counsel will be addressed in the final set of reporting requirements, discussed below.

Section 600.9 Notification and Reports by the Attorney General

''(a) The Attorney General will notify the Chairman and Ranking Minority Member of the Judiciary Committees of each House of Congress, with an explanation for each action—

(1) Upon appointing a Special Counsel;

(2) Upon removing any Special Counsel; and

(3) Upon conclusion of the Special Counsel's investigation, including, to the extent consistent with applicable law, a description and explanation of instances (if any) in which the Attorney General concluded that a proposed action by a Special Counsel was so inappropriate or unwarranted under established Departmental practices that it should not be pursued.

(b) The notification requirement in paragraph (a)(1) of this section may be tolled by the Attorney General upon a finding that legitimate investigative or privacy concerns require confidentiality. At such time as confidentiality is no longer needed, the notification will be provided.

(c) The Attorney General may determine that public release of these reports would be in the public interest, to the extent that release would comply with applicable legal restrictions. All other releases of information by any Department of Justice employee, including the Special Counsel and staff, concerning matters handled by Special Counsels shall be governed by the generally applicable Departmental guidelines concerning public comment with respect to any criminal investigation, and relevant law.''

Discussion

To help ensure congressional and public confidence in the integrity of the process, the regulations impose on the Attorney General these reporting requirements to the Judiciary Committees of the Congress. These reports will occur on three occasions: on the appointment of a Special Counsel, on the Attorney General's decision to remove a Special Counsel, and on the completion of the Special Counsel's work. These reports will be brief notifications, with an outline of the actions and the reasons for them.

Section 600.10 No Creation of Rights

''The regulations in this part are not intended to, do not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law or equity, by any person or entity, in any matter, civil, criminal, or administrative.''

Certifications and Determinations

Administrative Procedure Act

This rule relates to matters of agency management or personnel, and is therefore exempt from the usual requirements of prior notice and comment and a 30-day delay in the effective date. *See* 5 U.S.C. 553(a)(2). Moreover, to the extent that rulemaking procedures would otherwise be applicable, the Department finds that this rule would be exempted from the requirements of prior notice and comment as a rule of agency organization, procedure, or practice. *See* 5 U.S.C. 553(b)(A). Similarly, the effective date of the rule need not be delayed for 30 days after publication because the rule is not a ''substantive rule.'' *See* 5 U.S.C. 553(d); 5 U.S.C. 552(a)(1)(D). In any event, because the provisions of the Independent Counsel Reauthorization Act of 1994 expire on June 30, 1999, the Attorney General has determined that it is imperative to have these rules governing the appointment and service of a Special Counsel in place as soon as possible. Accordingly, even if the rule were not exempt from the usual requirements of prior notice and comment and a 30-day delay in the effective date, there would be ''good cause'' for issuing this rule without prior notice and comment and without a 30-day delay in the effective date. *See* 5 U.S.C. 553(b)(B); 5 U.S.C. 553(d)(3).

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. It is a rule relating to agency management or personnel and is therefore excluded from the scope of a covered ''rule'' for purposes of Chapter 8 of Title 5, U.S.C. *See* 5 U.S.C. 804(3)(B). Moreover, to the extent that this rule would be considered to be a rule of agency organization, procedure, or practice, it is excluded from the scope of a covered ''rule'' pursuant to 5 U.S.C. 804(3)(C). The provisions of Part 600 relate to the Attorney General's appointment of a Special Counsel as an employee of the Department of Justice, the procedures for defining the jurisdiction of the Special Counsel, and the requirements for consultation or approval within the Department. If the Attorney General determines, in some particular case, to appoint a Special Counsel, the Special Counsel would assume responsibility for an investigation or prosecution that would otherwise be under the responsibility of a litigating Division of the Department or a United States Attorney's Office, but the Special Counsel would nevertheless be serving under the Attorney General's authority as provided in this rule. For these reasons, the Department has determined that this rule does not substantially affect the rights or obligations of non-agency parties.

Accordingly, because this action is not a covered ''rule,'' it is exempt from the requirement for the Department to submit a report to each House of Congress and to the Comptroller General before this rule can take effect, as provided in 5 U.S.C. 801(a)(1).

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this regulation and, by approving it, certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, Regulatory Planning and Review. The Department of Justice has determined that this is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, and that it relates to a matter of agency organization, management, or personnel. See Executive Order 12866, 3(d)(3). Accordingly, this rule has not been reviewed by the Office of Management and Budget.

Executive Order 12612

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on 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 regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This regulation will not result in the expenditure by State, local, and tribal government, in the aggregate, or by the private sector, of $100,000,000 or more in any one 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.

List of Subjects

28 CFR Part 0

Authority delegations (Government agencies), Government employees, Organization and functions (Government agencies), Whistleblowing.

28 CFR Part 600

Authority delegations (Government agencies), Conflict of interests, Crime, Government employees, Investigations.

Accordingly, by virtue of the authority vested in me as Attorney General, including 5 U.S.C. 301 and 28 U.S.C. 509 and 510, chapters I and VI of title 28 of the Code of Federal Regulations, are amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

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

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

§ 0.14 [Removed]

2. Section 0.14 is removed.

3. Part 600 is revised to read as follows:

PART 600—GENERAL POWERS OF SPECIAL COUNSEL

Sec.

600.1 Grounds for appointing a Special Counsel.
600.2 Alternatives available to the Attorney General.
600.3 Qualifications of the Special Counsel.
600.4 Jurisdiction.
600.5 Staff.
600.6 Powers and authority.
600.7 Conduct and accountability.
600.8 Notification and reports by the Special Counsel.
600.9 Notification and reports by the Attorney General.
600.10 No creation of rights.

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

§ 600.1 Grounds for appointing a Special Counsel.

The Attorney General, or in cases in which the Attorney General is recused, the Acting Attorney General, will appoint a Special Counsel when he or she determines that criminal investigation of a person or matter is warranted and—

(a) That investigation or prosecution of that person or matter by a United States Attorney's Office or litigating Division of the Department of Justice would present a conflict of interest for the Department or other extraordinary circumstances; and

(b) That under the circumstances, it would be in the public interest to appoint an outside Special Counsel to assume responsibility for the matter.

§ 600.2 Alternatives available to the Attorney General.

When matters are brought to the attention of the Attorney General that might warrant consideration of appointment of a Special Counsel, the Attorney General may:

(a) Appoint a Special Counsel;

(b) Direct that an initial investigation, consisting of such factual inquiry or legal research as the Attorney General deems appropriate, be conducted in order to better inform the decision; or

(c) Conclude that under the circumstances of the matter, the public interest would not be served by removing the investigation from the normal processes of the Department, and that the appropriate component of the Department should handle the matter. If the Attorney General reaches this conclusion, he or she may direct that appropriate steps be taken to mitigate any conflicts of interest, such as recusal of particular officials.

§ 600.3 Qualifications of the Special Counsel.

(a) An individual named as Special Counsel shall be a lawyer with a reputation for integrity and impartial decisionmaking, and with appropriate experience to ensure both that the investigation will be conducted ably, expeditiously and thoroughly, and that investigative and prosecutorial decisions will be supported by an informed understanding of the criminal law and Department of Justice policies. The Special Counsel shall be selected from outside the United States Government. Special Counsels shall agree that their responsibilities as Special Counsel shall take first precedence in their professional lives, and that it may be necessary to devote their full time to the investigation, depending on its complexity and the stage of the investigation.

(b) The Attorney General shall consult with the Assistant Attorney General for Administration to ensure an appropriate method of appointment, and to ensure that a Special Counsel undergoes an appropriate background investigation and a detailed review of ethics and conflicts of interest issues. A Special Counsel shall be appointed as a ''confidential employee'' as defined in 5 U.S.C. 7511(b)(2)(C).

§ 600.4 Jurisdiction.

(a) *Original jurisdiction*. The jurisdiction of a Special Counsel shall be established by the Attorney General. The Special Counsel will be provided with a specific factual statement of the matter to be investigated. The jurisdiction of a Special Counsel shall also include the authority to investigate and prosecute federal crimes committed in the course of, and with intent to interfere with, the Special Counsel's investigation, such as perjury, obstruction of justice, destruction of evidence, and intimidation of witnesses; and to conduct appeals arising out of the matter being investigated and/or prosecuted.

(b) *Additional jurisdiction*. If in the course of his or her investigation the Special Counsel concludes that additional jurisdiction beyond that specified in his or her original jurisdiction is necessary in order to fully investigate and resolve the matters

assigned, or to investigate new matters that come to light in the course of his or her investigation, he or she shall consult with the Attorney General, who will determine whether to include the additional matters within the Special Counsel's jurisdiction or assign them elsewhere.

(c) *Civil and administrative jurisdiction.* If in the course of his or her investigation the Special Counsel determines that administrative remedies, civil sanctions or other governmental action outside the criminal justice system might be appropriate, he or she shall consult with the Attorney General with respect to the appropriate component to take any necessary action. A Special Counsel shall not have civil or administrative authority unless specifically granted such jurisdiction by the Attorney General.

§ 600.5 Staff.

A Special Counsel may request the assignment of appropriate Department employees to assist the Special Counsel. The Department shall gather and provide the Special Counsel with the names and resumes of appropriate personnel available for detail. The Special Counsel may also request the detail of specific employees, and the office for which the designated employee works shall make reasonable efforts to accommodate the request. The Special Counsel shall assign the duties and supervise the work of such employees while they are assigned to the Special Counsel. If necessary, the Special Counsel may request that additional personnel be hired or assigned from outside the Department. All personnel in the Department shall cooperate to the fullest extent possible with the Special Counsel.

§ 600.6 Powers and authority.

Subject to the limitations in the following paragraphs, the Special Counsel shall exercise, within the scope of his or her jurisdiction, the full power and independent authority to exercise all investigative and prosecutorial functions of any United States Attorney. Except as provided in this part, the Special Counsel shall determine whether and to what extent to inform or consult with the Attorney General or others within the Department about the conduct of his or her duties and responsibilities.

§ 600.7 Conduct and accountability.

(a) A Special Counsel shall comply with the rules, regulations, procedures, practices and policies of the Department of Justice. He or she shall consult with appropriate offices within the Department for guidance with respect to established practices, policies and procedures of the Department, including ethics and security regulations and procedures. Should the Special Counsel conclude that the extraordinary circumstances of any particular decision would render compliance with required review and approval procedures by the designated Departmental component inappropriate, he or she may consult directly with the Attorney General.

(b) The Special Counsel shall not be subject to the day-to-day supervision of any official of the Department. However, the Attorney General may request that the Special Counsel provide an explanation for any investigative or prosecutorial step, and may after review conclude that the action is so inappropriate or unwarranted under established Departmental practices that it should not be pursued. In conducting that review, the Attorney General will give great weight to the views of the Special Counsel. If the Attorney General concludes that a proposed action by a Special Counsel should not be pursued, the Attorney General shall notify Congress as specified in § 600.9(a)(3).

(c) The Special Counsel and staff shall be subject to disciplinary action for misconduct and breach of ethical duties under the same standards and to the same extent as are other employees of the Department of Justice. Inquiries into such matters shall be handled through the appropriate office of the Department upon the approval of the Attorney General.

(d) The Special Counsel may be disciplined or removed from office only by the personal action of the Attorney General. The Attorney General may remove a Special Counsel for misconduct, dereliction of duty, incapacity, conflict of interest, or for other good cause, including violation of Departmental policies. The Attorney General shall inform the Special Counsel in writing of the specific reason for his or her removal.

§ 600.8 Notification and reports by the Special Counsel.

(a) *Budget.* (1) A Special Counsel shall be provided all appropriate resources by the Department of Justice. Within the first 60 days of his or her appointment, the Special Counsel shall develop a proposed budget for the current fiscal year with the assistance of the Justice Management Division for the Attorney General's review and approval. Based on the proposal, the Attorney General shall establish a budget for the operations of the Special Counsel. The budget shall include a request for assignment of personnel, with a description of the qualifications needed.

(2) Thereafter, 90 days before the beginning of each fiscal year, the Special Counsel shall report to the Attorney General the status of the investigation, and provide a budget request for the following year. The Attorney General shall determine whether the investigation should continue and, if so, establish the budget for the next year.

(b) *Notification of significant events.* The Special Counsel shall notify the Attorney General of events in the course of his or her investigation in conformity with the Departmental guidelines with respect to Urgent Reports.

(c) *Closing documentation.* At the conclusion of the Special Counsel's work, he or she shall provide the Attorney General with a confidential report explaining the prosecution or declination decisions reached by the Special Counsel.

§ 600.9 Notification and reports by the Attorney General.

(a) The Attorney General will notify the Chairman and Ranking Minority Member of the Judiciary Committees of each House of Congress, with an explanation for each action—

(1) Upon appointing a Special Counsel;

(2) Upon removing any Special Counsel; and

(3) Upon conclusion of the Special Counsels investigation, including, to the extent consistent with applicable law, a description and explanation of instances (if any) in which the Attorney General concluded that a proposed action by a Special Counsel was so inappropriate or unwarranted under established Departmental practices that it should not be pursued.

(b) The notification requirement in paragraph (a)(1) of this section may be tolled by the Attorney General upon a finding that legitimate investigative or privacy concerns require confidentiality. At such time as confidentiality is no longer needed, the notification will be provided.

(c) The Attorney General may determine that public release of these reports would be in the public interest, to the extent that release would comply with applicable legal restrictions. All other releases of information by any Department of Justice employee, including the Special Counsel and staff, concerning matters handled by Special Counsels shall be governed by the generally applicable Departmental guidelines concerning public comment with respect to any criminal investigation, and relevant law.

§ 600.10 No creation of rights.

The regulations in this part are not intended to, do not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law or equity, by any person or entity, in any matter, civil, criminal, or administrative.

Dated: June 30, 1999.

Janet Reno,

Attorney General.

[FR Doc. 99–17327 Filed 7–8–99; 8:45 am]

BILLING CODE 4410–AR–P

DEPARTMENT OF JUSTICE

48 CFR Part 2832

[Justice Acquisition Circular 99–1]

RIN 1105–AA68

Amendment to the Justice Acquisition Regulations (JAR) Regarding: Electronic Funds Transfer

AGENCY: Justice Management Division, Justice.

ACTION: Final rule.

SUMMARY: The Department of Justice is amending the Justice Acquisition Regulations (JAR) to provide flexibility to contractors in the timing of receipt of Electronic Funds Transfer (EFT) information from them. The Debt Collection Improvement Act of 1996, Public Law (P.L.) 104–134, mandates payment by EFT in most situations. In order to make the payment by EFT, the Department needs certain information from contractors. This rule gives the Department's contracting officers discretion in determining when contractors must submit the required information. Without the changes made by this rule, contractors would have to submit their EFT information no later than 15 days prior to their first request for payment.

DATES: Effective date: This rule is effective July 9, 1999.

FOR FURTHER INFORMATION CONTACT: Janis A. Spostao, Procurement Executive, Justice Management Division (202) 514–3103.

SUPPLEMENTARY INFORMATION:

Why Is the Department Changing the Justice Acquisition Regulations?

Public Law 104–134 amended 31 U.S.C. section 3332, to require that beginning January 2, 1999, all Federal payments (other than payments under the Internal Revenue Code of 1986) shall be made by EFT. The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are responsibilities for issuing Federal Acquisition Circulars (FACs) and the Federal Acquisition Regulations (FAR) which are binding on other Federal Agencies. On March 4, 1999, these councils published Federal Acquisition Circular (FAC) 97–11, in the **Federal Register** (64 FR 10538–10544) as a final rule with an effective date of May 3, 1999. A portion of this final rule—Item IV—Electronic Funds Transfer—amended the FAR to address the use of EFT for Federal contract payments and to facilitate the implementation of P.L. 104–134.

Who Is Affected by the Changes Made by Item IV—Electronic Funds Transfer?

Before the latest FAR revision, contractors who sell to Federal agencies were required to furnish EFT information no later than 15 days prior to the submission of their first request for payment. Some contractors furnish their EFT information by registering in the Central Contractor Registration database. Agencies use that database to obtain EFT information. Other contractors are not registered in the Central Contractor Registration database, or agencies elect not to use the database. Under those circumstances, agencies collect EFT information directly from contractors.

What Changes Does This Rule Make?

When collecting EFT information directly from contractors, Item IV of FAC 97–11 allows the heads of Federal agencies to issue procedures that allow contracting officers discretion in determining when contractors' EFT information must be submitted in order to comply with P.L. 104–134 and to make timely payments. In the absence of this regulation, contractors of the Department would have to submit EFT information no later than 15 days prior to the submission of the first request for payment. This rule gives the Department's contracting officers discretion in determining when contractors must submit the required information. This flexibility will allow components of the Department to receive the EFT information with the first invoice, rather than 15 days before the first invoice. For those components that adopt such a procedure, contractors will only have to make one submission (the EFT information along with the invoice) rather than two submissions (the EFT information and—at least 15 days later—the invoice.) The flexibility proposed by this rule should be a benefit to contractors.

Regulatory Certifications

Administrative Procedure Act, 5 U.S.C. 553

This rule enhances the ability of Department contracting officers to allow contractors flexibility as to when to submit information required by current statute law and regulations. Further, this rule imposes no new restrictions. Accordingly, the Department of Justice finds good cause for exempting this rule from the provision of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and delay in effective date.

Regulatory Flexibility Act

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council published FAC 97–11 on March 4, 1999 at 64 FR 10538. In conjunction with the publication of that final rule, these councils performed a Final Regulatory Flexibility Analysis and submitted a copy to the Chief Counsel for Advocacy of the Small Business Administration.

The Assistant Attorney General for Administration in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities because this regulation merely sets forth internal procedures of the Department relating to the timing of receipt of EFT information from contractors.

Executive Order 12866

This regulation has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review'', § 1(b), Principles of Regulation. The Department of Justice has determined that this rule is not a ''significant regulatory action'' under Executive Order 12866, § 3(f), and accordingly this rule has not been reviewed by the Office of Management and Budget.

Executive Order 12612

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on 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 regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

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 $100,000,000 or more in any one 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.

Plain Language Instructions

We try to write clearly. If you can suggest how to improve the clarity of these regulations, call or write Janis A. Sposato, Procurement Executive, Justice Management Division (202) 514–3103.

Paperwork Reduction Act

This rule imposes no new information collection requirements that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (Pub. L. 96–511). All information collection requirements have been submitted to OMB. In those cases where an OMB control number has been assigned, the control number is included in the regulation.

List of Subjects in 48 CFR Part 2832

Government procurement.

Stephen R. Colgate,

Assistant Attorney General for Administration.

Accordingly, 48 CFR part 2832 is amended as follows:

1. The authority citation for 48 CFR part 2832 continues to read as follows:

Authority: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 28 CFR 0.76(j).

PART 2832—CONTRACT FINANCING

2. A new Subpart 2832.11 is added to read as follows:

Subpart 2832.11—Electronic Funds Transfer

2832.1110 Solicitation provision and contract clauses.

Subpart 2832.11—Electronic Funds Transfer

2832.1110 Solicitation provision and contract clauses.

When the clause at FAR 52.232–34, Payment by Electronic Funds Transfer-Other than Central Contractor Registration, is required the contracting officer may insert in paragraph (b)(1) of the clause a particular time after award, such as a fixed number of days, or an event such as the submission of the first request for payment, to establish the point at which contractors' EFT information must be provided.

[FR Doc. 99–17373 Filed 7–8–99; 8:45 am]

BILLING CODE 4410–AR–M

Proposed Rules

Federal Register
Vol. 64, No. 131
Friday, July 9, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–75–AD]

Airworthiness Directives; Eurocopter France Model SA–365C, C1, C2, N, and N1; AS–365N2; and SA–366G1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) applicable to Eurocopter France Model SA–365C, C1, C2, N, and N1; AS–365N2; and SA–366G1 helicopters. This proposal would require inspecting the tightening torque of the main rotor hub blade attach beam spherical thrust bearing bolts (bolts). The proposal would then require either applying the specified torque or, if necessary, conducting a dye penetrant inspection for cracks in the metal components. If a crack is found, the proposal would require replacing the spherical thrust bearing (bearing) with an airworthy bearing. This proposal is prompted by reports of cracks in the metal components of the bearing attachment joint. The actions specified by the proposed AD are intended to prevent loosening of bearing bolts in flight, which may cause cracks in the metal components, failure of the bearing, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before September 7, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–75–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mike Mathias, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0111, telephone (817) 222–5123, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed 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 summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–SW–75–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–75–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

The Direction Generale De L'Aviation Civile (DGAC), which is the airworthiness authority for France, has notified the FAA that an unsafe condition may exist on Eurocopter France Model SA–365C, C1, C2, N, and N1; AS–365N2; and SA–366G1 helicopters. The DGAC advises of the formation of cracks in the metal components of the bearing joint due to increased stress resulting from possible loosening of the bearing bolts.

Eurocopter France has issued Service Bulletins 05.22, 05.24, and 05.00.39, all dated July 17, 1998 (SB's). The SB's specify inspecting the bearing bolts for the specified tightening torque and applying a greater torque or, if necessary, performing a dye penetrant inspection of the metal components of the bearing joint for cracks and replacing any bolt in which a crack is found. The DGAC classified these SB's as mandatory and issued AD's 98–383–044(A), 98–382–024(A), 98–384–047(A), all dated September 23, 1998, to ensure the continued airworthiness of these helicopters in France.

These helicopter models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter France Model SA–365C, C1, C2, N, and N1; AS–365N2; and SA–366G1 helicopters of the same type designs registered in the United States, the proposed AD would require inspecting to determine the torque applied to the bearing bolts and replacing the bearing if a crack is found.

The FAA estimates that 100 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 0.5 work hour and approximately 3,000 inspections over the life of the fleet per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $3,000 per

helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $9,030,000, assuming 10 ship sets of bearings would need to be replaced on the fleet.

The regulations proposed herein would 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 proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting 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.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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 a new airworthiness directive to read as follows:

Eurocopter France: Docket No. 98–SW–75–AD.

Applicability: Model SA–365C, C1, C2, N, and N1; AS–365N2; and SA–366G1 helicopters, certificated in any category.

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

Compliance: Required within 550 hours time-in-service (TIS), unless accomplished previously, and thereafter at intervals not to exceed 550 hours TIS.

To prevent loosening of the main rotor hub blade attach beam spherical thrust bearing bolts (bolts), cracks in the metal components, failure of a spherical thrust bearing (bearing), and subsequent loss of control of the helicopter, accomplish the following:

(a) Inspect the tightening torque of the bolts as indicated by ''A'' in Figure 1.

(1) If tightening torque is equal to or less than 12 m.daN (88.4 lb-ft), remove the bearing and conduct a dye penetrant inspection for cracks on the two contact surfaces identified as ''H'' in Figure 1.

(i) If a crack is detected, replace the bearing with an airworthy bearing.

(ii) If no crack is detected, reinstall the bearing.

Note 2: Eurocopter France Service Bulletins 05.22, 05.24, and 05.00.39, all dated July 17, 1998, pertain to the subject of this AD.

(2) If the tightening torque is greater than 12 m.daN (88.4 lb-ft), then tighten to 19–22 m.daN (140–162.2 lb-ft).

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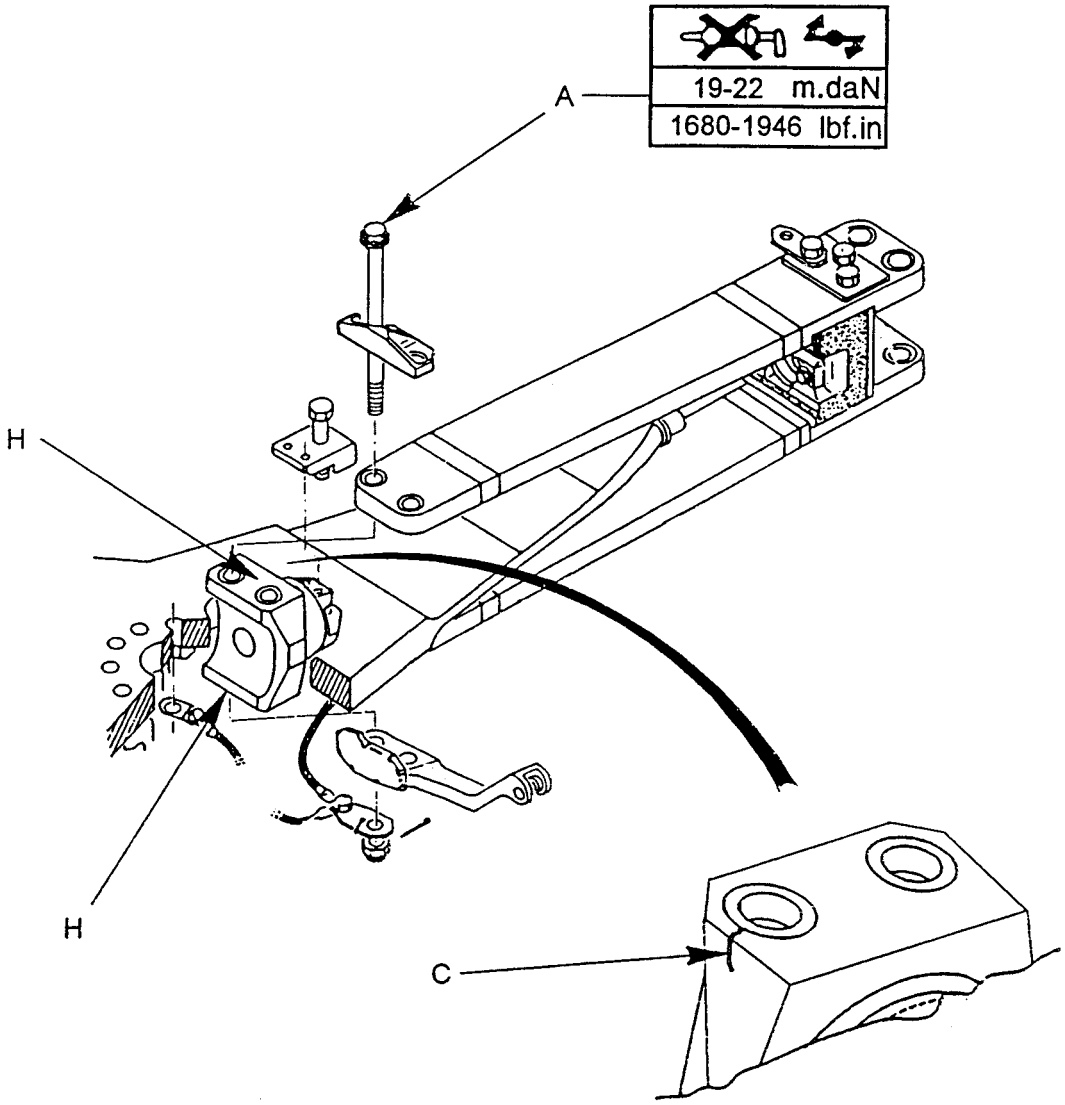

Figure 1

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(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Standards Staff, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

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

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

Note 4: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD's 98–383–044(A) for the Model SA–365C, 98–382–024–(A) for the Model SA–366, and 98–384–047(A) for the Model AS–365N helicopters. These AD's are all dated September 23, 1998.

Issued in Fort Worth, Texas, on July 2, 1999.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–17487 Filed 7–8–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 801

[Docket No. 99061159–9159–01]

RIN 0691–AA35

International Services Surveys: BE–80, Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice sets forth proposed rules to revise 15 CFR part 801.11 to present the reporting requirements for the BE–80, Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons.

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 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)).

BEA proposes to raise the exemption level for the 1999 survey to $3 million in covered sales or purchases transactions, from $1 million on the previous (1994) survey. Raising the exemption level will reduce respondent burden, particularly for small companies. BEA also proposes to combine private placement services with underwriting services, combine foreign exchange brokerage services with other brokerage services, and create a separate category for electronic funds transfers. Finally, BEA has restated the definition of ''financial services provider'' using the nomenclature of the new North American Industry Classification System that has replaced the U.S. Standard Industrial Classification System.

The changes in the types of services to be reported separately reflect BEA's experience in collecting data on financial services transactions over the past 5 years. Data collected for both private placement and foreign brokerage services have been very small and do not justify the continuation of separate reporting. Electronic funds transfer services, in contrast, appear to account for a large fraction of both total receipts and total payments for ''other financial services,'' in which electronic funds transfers were previously included.

DATES: Comments on these proposed rules will receive consideration if submitted in writing on or before September 7, 1999.

ADDRESSES: Mail comments to the Office of the Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230, or hand deliver comments to room M–100, 1441 L Street, N.W., Washington, DC 2005. Comments will be available for public inspection in room 7005, 1441 L Street, N.W., between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: R. David Belli, Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 606–9800.

SUPPLEMENTARY INFORMATION: These proposed rules amend 15 CFR part 801 to set forth revised reporting requirements for the BE–80, Benchmark Survey of Financial Services Transactions Between Financial Services Providers and Unaffiliated Foreign Persons. The Bureau of Economic Analysis (BEA), U.S. Department of Commerce, will conduct the survey under the International Investment and Trade in Services Survey Act (22 U.S.C. 3101–3108), and under section 5408 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4908). Section 4(a) of the Act (22 U.S.C. 3103(a)) provides that ''The President shall, to the extent he deems necessary and feasible * * * (1) conduct a regular data collection program to secure current information—related to international investment and trade in services * * *; and (5) publish for the use of the general public and United States Government agencies periodic, regular, and comprehensive statistical information collected pursuant to this subsection * * *'' In Section 3 of Executive Order 11961, the President delegated authority granted under the Act as concerns international trade in services to the Secretary of Commerce, who has redelegated it to BEA.

The BE–80 survey is mandatory and is conducted once every 5 years by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce, under the International Investment and Trade in Services Survey Act (22 U.S.C. 3101–3108) hereinafter ''the Act'', and under Section 5408 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4908). The proposed benchmark survey will be conducted for 1999. BEA will send the survey to potential respondents in January of the year 2000; responses will be due by March 31, 2000. The last benchmark survey was conducted for 1994. The benchmark survey will obtain universe data on trade in financial services, by type and by country, between U.S. financial services providers and unaffiliated foreign persons. Data from the BE–80 survey (and the follow-on annual survey, the BE–82) are needed to monitor trade in financial services, analyze its impact on the U.S. and foreign economies, compile and improve the U.S. economic accounts, support U.S. commercial policy on financial services, conduct trade promotion, improve the ability of U.S. businesses to identify and evaluate market opportunities, and for other Government uses.

The major purposes of the survey are to monitor trade in financial services, analyze its impact on the U.S. and foreign economies, compile and improve the U.S. economic accounts, support U.S. commercial policy on financial services, conduct trade promotion, and improve the ability of U.S. businesses to identify and evaluate market opportunities.

As proposed, BEA will conduct the BE–80 survey once every 5 years. The last survey was conducted for 1994. The survey is intended to cover the universe of financial services transactions

between U.S. financial services providers and unaffiliated foreign persons. Reporting is required from U.S. financial services providers who have sales to or purchases from affiliated foreign persons in all covered financial services combined in excess of $3 million during the reporting year. Financial services providers meeting this criteria must supply data on the amount of their sales or purchases for each covered type of service, disaggregated by country. U.S. financial services providers that have covered transactions of less than $3 million during the reporting year are asked to provide voluntary estimates of their total sales or purchases of each type of financial service.

The information from the benchmark survey is updated in nonbenchmark years by an annual follow on survey, the BE–82. Currently, the annual survey covers only those U.S. financial services providers that have covered transaction in excess of $5 million during the reporting year.

Executive Order 12612

These proposed rules do not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 12612.

Executive Order 12866

These proposed rules have been determined to be not significant for purposes of E.O. 12866.

Paperwork Reduction Act

These proposed rules contain a collection of information requirement subject to the Paperwork Reduction Act (PRA) and have been submitted to the Office of Management and Budget for review under the PRA.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act unless that collection displays a currently valid Office of Management and Budget Control Number.

The survey, as proposed, is expected to result in the filing of reports, containing mandatory or voluntary data, from about 500 respondents. The average burden for completing the BE–80—both the mandatory and voluntary sections—is estimated to be 7 hours. Thus, the total respondent burden of the survey is estimated at 3,500 hours (500 respondents times 7 hours average burden). The actual burden will vary from reporter to reporter, depending upon the number and variety of their financial services transactions and the ease of assembling the data. Thus, it may range from 4 hours for a reporter that has a small number and variety of transactions and easily accessible data, or that reports only in the voluntary section of the form, to 150 hours for a very large reporter that engages in a large number and variety of financial services transactions and has difficulty in locating and assembling the required data. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Comments are requested concerning: (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 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. Comments should be addressed to: Director, Bureau of Economic Analysis (BE–1), U.S. Department of Commerce, Washington, DC 20230, and to the Office of Management and Budget, O.I.R.A., Paperwork Reduction Project 0608–0062, Washington, DC 20503 (Attention PRA Desk Officer for BEA).

Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rulemaking, if adopted, will not have a significant economic impact on a substantial number of small entities. The information collection excludes most small businesses from mandatory reporting. Companies that engage in international financial services transactions tend to be quite large. In addition, the reporting threshold for this survey is set at a level that will exempt most small businesses from reporting. The BE–80 benchmark survey will be required only from U.S. persons with sales to, or purchases from, unaffiliated foreign persons in excess of $3,000,000 during the reporting year, in all covered financial services transactions combined; the exemption level for the previous benchmark survey, covering 1994, was $1,000,000. Thus, the exemption level will exclude most small businesses form mandatory coverage. Of those small businesses that must report, most will tend to have specialized operations and activities, so they will likely report only one type of transaction; therefore, the burden on them should be small.

List of Subjects in 15 CFR Part 806

Balance of Payments, Economic statistics, Foreign trade, Penalties, Reporting and recordkeeping requirements.

J. Steven Landefeld,

Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, BEA proposes to amend 15 CFR Part 801, as follows:

PART 801—SURVEY OF INTERNATIONAL TRADE IN SERVICES BETWEEN U.S. AND FOREIGN PERSONS

1. The authority citation for 15 CFR Part 801 continues to read as follows:

Authority: 5 U.S.C. 301, 15 U.S.C. 4908, 22 U.S.C. 3101–3108; E.O. 11961, 3 CFR, 1977 Comp., p. 86 as amended by E.O. 12013, 3 CFR, 1977 Comp., p. 147, E.O. 12318, 3 CFR, 1981 Comp., p. 173, and E.O. 12518, 3 CFR, 1985 Comp., p. 348.

2. Section 801.11 is revised to read as follows:

§ 801.11 Rules and regulations for the BE–80, Benchmark Survey of Financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons.

A BE–80, Benchmark Survey of financial Services Transactions Between U.S. Financial Services Providers and Unaffiliated Foreign Persons, will be conducted covering 1999 and every fifth year thereafter. All legal authorities, provisions, definitions, and requirements contained in §§ 801.1 through 801.9 are applicable to this survey. Additional rules and regulations for the BE–80 survey are given in paragraphs (a) through (d) of this section. More detailed instructions are given on the report forms and instructions.

(a) Who must report—(1) Mandatory reporting. Reports are required from each U.S. person who is a financial services provider or intermediary, or whose consolidated U.S. enterprise includes a separately organized subsidiary, or part, that is a financial services provider or intermediary, and who had transactions (either sales or purchases) directly with unaffiliated foreign persons in all financial services combined in excess of $3,000,000 during its fiscal year covered by the survey. The $3,000,000 threshold

should be applied to financial services transactions with unaffiliated foreign persons by all parts of the consolidated U.S. enterprise combined that are financial services providers or intermediaries. Because the $3,000,000 threshold applies separately to sales and purchases, the mandatory reporting requirement may apply only to sales, only to purchases, or to both.

(i) The determination of whether a U.S. financial services provider or intermediary is subject to this mandatory reporting requirement may be based on the judgement of knowledgeable persons in a company who can identify reportable transactions on a recall basis, with a reasonable degree of certainty, without conducting a detailed manual records search.

(ii) Reporters who file pursuant to this mandatory reporting requirement must provide data on total sales and/or purchases of each of the covered types of financial services transactions and must disaggregate the totals by country.

(2) Voluntary reporting. If during the fiscal year covered, sales of purchases of financial services by a firm that is a financial services provider or intermediary, or by a firm's subsidiaries, or parts, combined that are financial services providers or intermediaries, are $3,000,000 or less, the U.S. person is requested to provide an estimate of the total for each type of service. Provision of this information is voluntary. Because the $3,000,000 threshold applies separately to sales and purchases, this voluntary reporting option may apply only to sales, only to purchases, or to both.

(b) BE–80 definition of financial services provider. Except for Monetary Authorities (i.e., Central Banks), the definition of financial services provider used for this survey is identical in coverage to Sector 52—Finance and Insurance—of the North American Industry Classification System, United States, 1997. For example, companies and/or subsidiaries and other separable parts of companies in the following industries are defined as financial services providers: Depository credit intermediation and related activities (including commercial banking, holding companies, savings institutions, check cashing, and debit card issuing); nondepository credit intermediation (including credit card issuing, sales financing, and consumer lending); securities, commodity contracts, and other financial investments and related activities (including security and commodity futures brokers, dealers, exchanges, traders, underwriters, investment bankers, and providers of securities custody services); insurance carriers and related activities (including agents, brokers, and services providers); investment advisors and managers and funds, trusts, and other financial vehicles (including mutual funds, pension funds, real estate investment trusts, investors, stock quotation services, etc.).

(c) Covered types of services. The BE–80 survey covers the following types of financial services transactions (purchases and/or sales) between U.S. financial services providers and unaffiliated foreign persons: Brokerage, including foreign exchange brokerage services; underwriting and private placement services; financial management services; credit-related services, except credit card services; credit card services; financial advisory and custody services; securities lending services; electronic funds transfer services; and other financial services,

(d) What to file. (1) The BE–80 survey consists of Forms BE–80(A) and BE–80(B). Before completing a form BE–80(B), a consolidated U.S. enterprise (including the top U.S. parent and all of its subsidiaries and parts combined) must complete Form BE–80(A) to determine its reporting status. If the enterprise is subject to the mandatory reporting requirement, or if it is exempt from the mandatory reporting requirement but chooses to report data voluntarily, it should either

(i) File a separate Form BE–80(B) for each separately organized financial services subsidiary or part of a consolidated U.S. enterprise; or

(ii) File a single BE–80(B) representing the sum of all covered transactions by all financial services subsidiaries or parts of the enterprise combined.

(2) Reporters who receive the BE–80 survey from BEA but are not subject to the mandatory reporting requirements and choose not to report data voluntarily must complete and return to BEA the Exemption Claim.

[FR Doc. 99–17391 Filed 7–8–99; 8:45 am]

BILLING CODE 3510–06–M

FEDERAL TRADE COMMISSION

16 CFR Part 23

Extension of Time; Guides for the Jewelry, Precious Metals and Pewter Industries

AGENCY: Federal Trade Commission.

ACTION: Extension of time for filing public comments.

SUMMARY: The Federal Trade Commission (the ''Commission'') requested public comments on June 8, 1999, 64 FR 30448, on proposed revisions to the Guides for Jewelry, Precious Metals and Pewter Industries (''the Guides''), 16 CFR part 23. The Commission solicited comments until July 8, 1999. In response to a request from an industry group, the Commission grants an extension of the comment period.

DATES: Written comments will be accepted until August 31, 1999.

ADDRESSES: Comments should be directed to: Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Ave., NW., Washington, DC 20580. Comments should be identified as ''Guides for the Jewelry, Precious Metals and Pewter Industries—16 CFR Part 23—Comment.''

FOR FURTHER INFORMATION CONTACT: Robin Rosen Spector, Attorney, Federal Trade Commission, Washington, DC 20580, (202) 326–3740, <jewelry@ftc.gov>.

SUPPLEMENTARY INFORMATION: By letter dated June 23, 1999, the Appraisal Information Services' Gem and Jewelry Reference requested that the comment period be extended for forty-five days, until August 23, 1999.[1] The Commission has determined that an extension of the comment period as requested is appropriate. Therefore, to allow all interested persons the opportunity to supply the Commission with written data, views and arguments concerning the Commission's review of the Guides, the Commission grants an extension of the comment period to August 31, 1999.

List of Subjects in 16 CFR Part 23

Advertising, Labeling, Trade practices, Watches and jewelry.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 99–17432 Filed 7–8–99; 8:45 am]

BILLING CODE 6750–01–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1213, 1500, and 1513

Bunk Beds; Request for Additional Comment

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of proposed rulemaking.

[1] A copy of the letter has been placed on the public record of this proceeding.

SUMMARY: The Consumer Product Safety Commission (''CPSC'' or ''Commission'') previously proposed a rule that would mandate bunk bed performance requirements to reduce the hazard of children being entrapped in the beds' structures or becoming wedged between a bed and a wall. 64 FR 10245 (March 3, 1999).

After the original proposal, discussions at meetings of a voluntary standards group (ASTM) indicated that requirements in addition to those proposed are needed to adequately address fatalities due to entrapment of children's necks in the end structures of bunk beds. Such requirements are proposed in this notice, and would be in addition to the requirements previously proposed. The Commission solicits written and oral comments from interested persons. Comments must be limited to issues raised by the additional requirements in this notice.

DATES: Written comments in response to this proposal must be received by the Commission by September 22, 1999. If requests for oral presentations of comments are received, the presentations will begin at 10 a.m., July 29, 1999, in Room 420 in the Commission's offices at 4330 East-West Highway, Bethesda, MD 20814.

Requests to present oral comments must be received by July 15, 1999. Persons requesting an oral presentation must file a written text of their presentations no later than July 22, 1999.

ADDRESSES: Written comments, and requests to make oral presentations of comments, should be mailed, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207–0001, or delivered to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland; telephone (301) 504–0800. Comments also may be filed by telefacsimile to (301) 504–0127 or by email to cpsc-os@cpsc.gov. Written comments should be captioned ''NPR for Bunk Beds.'' Requests to make oral presentations and texts of presentations should be captioned ''Oral Comment; NPR for Bunk Beds.''

FOR FURTHER INFORMATION CONTACT: Concerning the substance of the proposed rule: John Preston, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, Washington, D.C. 20207–0001; telephone (301) 504–0494, ext. 1315; email jpreston@cpsc.gov.

Concerning requests and procedures for oral presentations of comments: Rockelle Hammond, Docket Control and Communications Specialist, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 504–0800 ext. 1232. Information about this rulemaking proceeding may also be found on the Commission's web site: www.cpsc.gov.

SUPPLEMENTARY INFORMATION:

A. Background

Without proper guardrails and safe dimensions for openings in the bed's structure, a bunk bed may allow a child to be entrapped, and thus strangle or suffocate. This can occur when the child becomes wedged between the wall and the bed, when the child slips his or her torso through an opening that is too small for its head to pass through, or when the child places its head in an opening, then moves to a narrower area of the opening where the head cannot pull out, and then falls or loses his/her footing.

There is a voluntary standard for bunk beds, ASTM F1427–96, that contains provisions to protect children from entrapment. The ASTM standard requires:

- That there be guardrails on both sides of the upper bunk, except for up to 15 inches at each end of the bed;
- That openings in the structure surrounding the upper bunk be small enough to prevent passage of a tapered block having a base measuring 3.5 inches by 6.2 inches (representing a child's torso) (See Fig. 1); and
- That openings in the end structures within 9 inches above the sleeping surface of the lower bunk mattress be either small enough to prevent passage of the 3.5 by 6.2 inch block or large enough to permit passage of a 9-inch diameter sphere (the space needed to withdraw a child's head).

Because of continued reports of deaths and other incidents associated with bunk beds, and because of indications there may not be adequate compliance with the voluntary ASTM standard, the CPSC published an advance notice of proposed rulemaking (''ANPR'') to begin a rulemaking proceeding that could result in performance or other standards to address the risk of entrapment associated with bunk beds. 63 FR 3280 (January 22, 1998). After considering the comments received in response to the ANPR, the Commission voted 2–1 to publish a notice of proposed rulemaking (''NPR'') to propose a new 16 CFR part 1213 under the Consumer Product Safety Act (''CPSA'') and a new 16 CFR part 1513 under the Federal Hazardous Substances Act (''FHSA''). 64 FR 10245 (March 3, 1999).

The entrapment requirements in these proposed rules are identical to those in the ASTM standard, with the following exceptions.

1. Definition of a bunk bed: A bed in which the underside of any foundation is over 30 inches from the floor. In the ASTM standard, a bunk bed is defined as a bed in which the underside of the foundation is over 35 inches from the floor.

2. Guardrails: The Commission proposed that one guardrail shall be continuous between each of the bed's end structures. The other guardrail may terminate before reaching the bed's end structures, providing there is no more than 15 inches between either end of the guardrail and the nearest bed end structure. The current ASTM standard permits both guardrails to end 15 inches from the nearest bed end structure.

3. Lower bunk end structures: The Commission proposed that there shall be no openings in the end structures between the underside of the foundation of the upper bunk and the upper side of the foundation of the lower bunk that will permit the free passage of the wedge block shown in Fig. 1 of the NPR (representing a child's torso) unless the openings are also large enough to permit the free passage of a 9-inch diameter sphere (to ensure the head can also pass through). In the ASTM standard, these passage requirements apply only to that portion of the end structure that is between the level of the lower bunk foundation support system and 9.0 inches (230 mm) above the sleeping surface of the maximum thickness mattress and foundation combined as recommended by the manufacturer.

In the fatal incidents of entrapment in the end structures of bunk beds where sufficient information was available, three occurred on beds that met the entrapment requirements in the ASTM standard. Of these, two involved entrapment in the upper bunk. In those two incidents, an 18-month-old infant and a child who was almost 5 years old slipped through the space between the end of the guardrail and the bed end structure and became wedged between the bed and a wall. These deaths are addressed in the original proposal by the requirement that one guardrail extend continuously between the bed's end structures. In the third incident, a 22-month-old child became entrapped by the head in an opening between the underside of the upper bunk foundation support and a curved structural member in the bunk-bed end structure. The Commission intended to address this death in the previous proposal by requiring that the torso probe in Fig. 1 be applied to all areas of the end

structure between the underside of the foundation of the upper bunk and the upper side of the foundation of the lower bunk. If the torso probe freely passes through an opening, the opening must also be large enough to permit the free passage of a 9-inch sphere, to allow head withdrawal.

After the original proposal, ASTM discussed whether to change the requirement in the ASTM standard addressing entrapment in lower bunk end structures to make it the same as that in the Commission's proposed rule. When ASTM members and CPSC staff discussed the details of the entrapment death of a 22-month-old child in a lower bunk end structure, mentioned above, it appeared that the opening in the structure of the metal bunk bed that was involved in the fatality could still present an entrapment hazard, even if it were modified to comply with the proposed requirement. The relevant portions of the bunk's end structure are shown in Figure A below.

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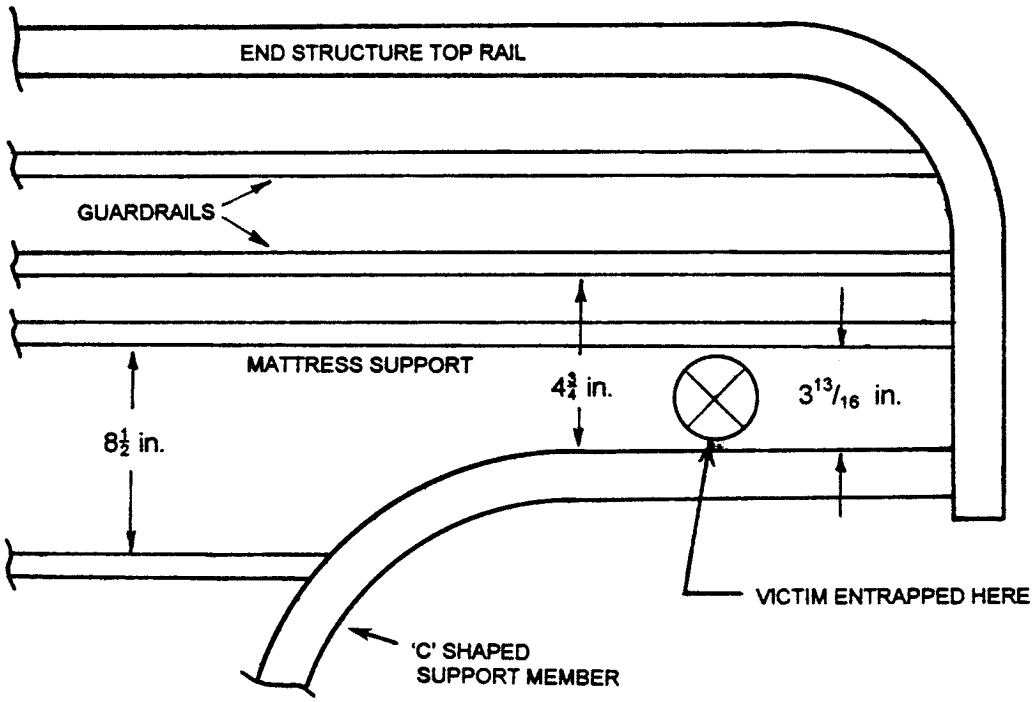

NOTE: Dimensions shown are the as-measured dimensions of the incident sample

Fig. A - End Structure of Bed Involved in Fatal Entrapment Incident Described in IDI #961126CWE5015

It is likely that this child placed his head through the wide portion of the opening then moved sideways until his neck was in the narrow portion of the opening. (A 22-month-old child's head is too large to go through the narrow portion of the opening.) After placing his neck into the narrow opening, his feet apparently slipped off the mattress of the lower bunk, suspending him by his head, and he strangled. Thus, the incident was a head-first neck entrapment, rather than a torso-first neck entrapment that would be addressed by the probe in Fig. 1 of the proposed standard.

For this bed to conform to the originally proposed requirement, the vertical dimension of the wider portion of the opening would have to be greater than 9 inches and the vertical dimension of the narrower portion would have to be less than 3½ inches (see Figure B). However, since a 22-month-old child's neck is significantly less than 3½ inches in diameter, the child could still become entrapped in the head-first manner described above.

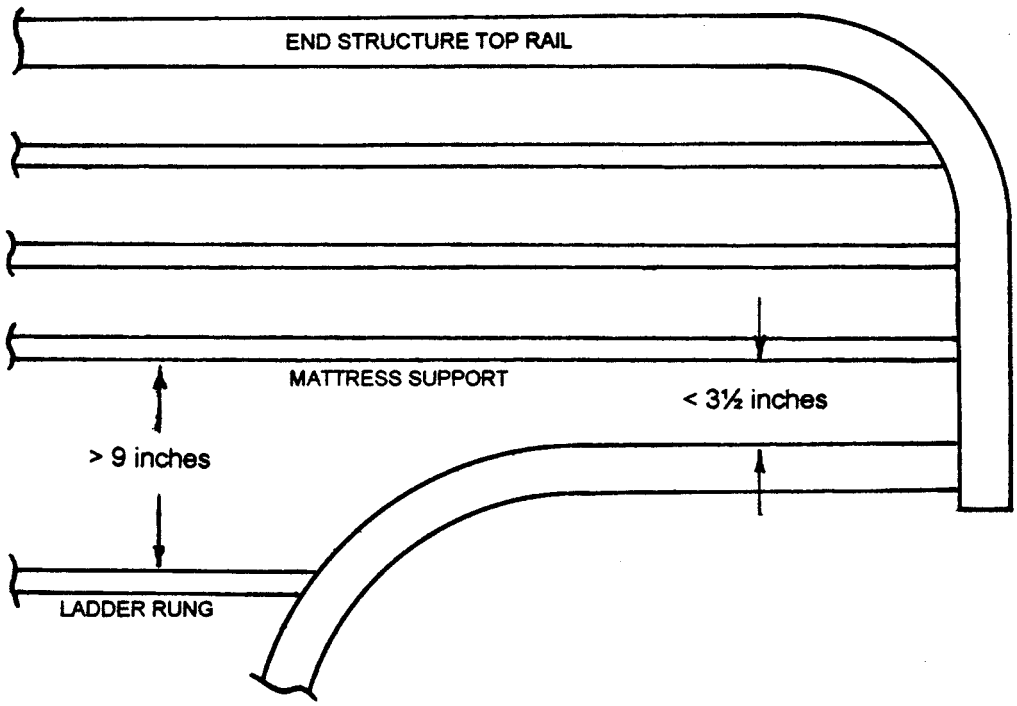

Fig. B - End Structure of Bed Modified to Comply With Entrapment Requirements in Rule Proposed in 3/3/99 Federal Register

There are two ways to modify the bed to prevent this type of entrapment. First, a vertical bar could be added to separate the wide and narrow portions of the opening (see Figure C). Second, the vertical dimension of the narrow portion of the opening could be reduced to less than 1⅞ inches, which is considered sufficient to prevent entry of the neck of a 5th percentile 2 year-old, accounting for tissue compression (see Figure D).

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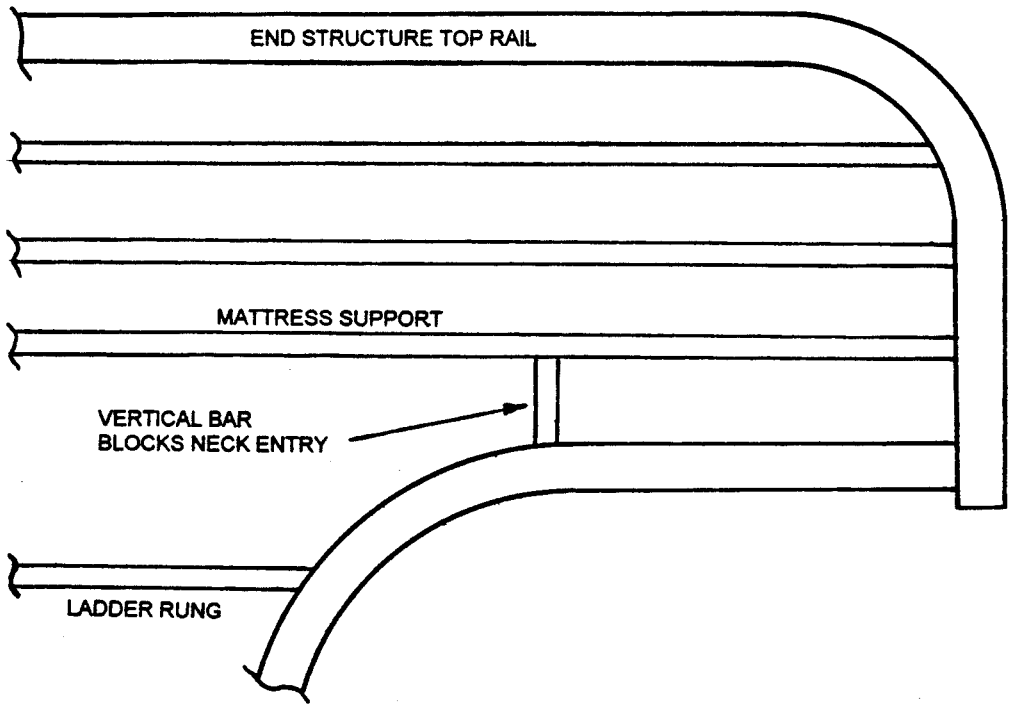

Fig. C – End Structure of Bed Modified to Add Vertical Bar Preventing Neck Entry into Narrow Portion of Opening

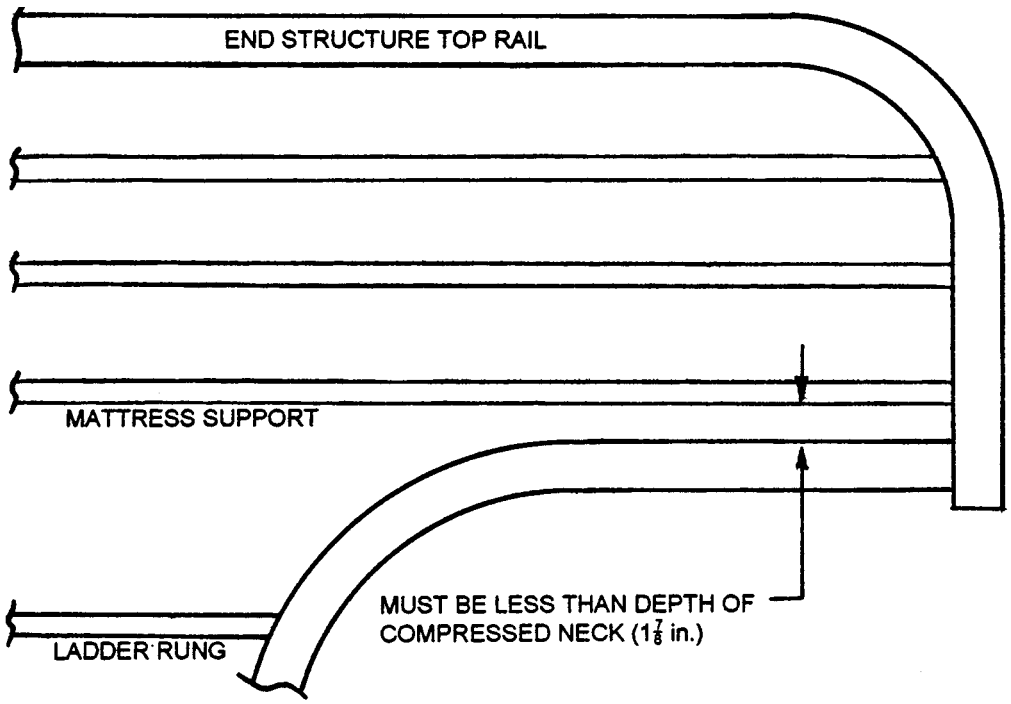

Fig. D – End Structure of Bed Modified to Reduce Vertical Dimension of Narrow Portion of Opening to Prevent Neck Entry

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B. The New Requirement

In order to protect against head-first entrapment in a bed's end structure, the Commission's staff developed a test procedure using the template shown in Fig. 2 to proposed Parts 1213 and 1513. This template and procedure are similar to those that were developed to address neck entrapment hazards in playground equipment structures and that are specified in ASTM F 1487–98, ''Standard Specification for Playground Equipment for Public Use.'' Any portion of an opening in the bed's end structure below the foundation of the upper bunk that is required to be probed by the wedge-block probe shown in Figure 1 to proposed parts 1213 and 1513, and that will allow free passage of a 9-inch diameter sphere, must satisfy the new neck entrapment provisions proposed in this notice.

The template of Figure 2 embodies the following principles. First, a child will not be able to insert his or her neck sideways into an opening of less than 1.88 inches. (This dimension represents the neck breadth of 2.5 inches for a 5th percentile 2-year-old child, minus an allowance of 0.62 inches for tissue compression.)

Second, there is a minimal likelihood of entrapment when the boundaries of an opening converge on the neck at an included angle of greater than 75 degrees. See CPSC memorandum from Shelley Waters Deppa to John Preston, ''Voluntary Standards for Gates and Enclosures,'' January 15, 1985. This angle was chosen to exclude the angles involved in neck entrapment accidents with baby gates and expandable enclosures.

In addition, in some boundary configurations, a child who slips while his/her head is in the opening will be removed from the opening by the force of gravity. In the proposed procedure, an opening that indicates a neck entrapment potential when tested with the template of Figure 2 is nevertheless allowed if its lower boundary slopes downward at 45 degrees or more for the whole distance from the narrowest part of the opening the neck can reach to the part of the opening that will freely pass a 9-inch diameter sphere.

The template is used to protect against head-first entrapment as follows. First, all portions of the boundary of the opening are probed with the ''A'' section of the test template of Fig. 2. The template is inserted into the opening, with the plane of the template in the plane of the opening and with the ''top'' of the template perpendicular to the centerline of the portion of the boundary being probed. The template is then moved along the centerline of the portion of the boundary being probed until it is stopped by contact with the boundaries of the opening (see Fig. 3).

If there is simultaneous contact between the boundary of the opening and both sides of the ''A'' section of the template, the boundary is converging on a potential neck entrapment point at an angle of less than 75 degrees, and further investigation is required. (Contact with one or both upper corners of the template is not considered to be contact with a ''side''.)

To check further for the potential for neck entrapment, place the neck portion of the ''B'' section of the template into the opening, with the template's plane perpendicular to both the plane of the opening and the centerline of the opening (see Fig. 4). If the neck portion can completely enter the opening (pass 0.75 inch or more beyond the points where contact with the sides of the ''A'' section of the template occurred), the

opening may present a neck entrapment hazard. Such an opening is not allowed unless the lower boundary of the opening slopes downward at 45 degrees or more for the whole distance from the narrowest part of the opening the neck can reach to the larger (greater than 9-inch) part of the opening.

C. Preliminary Regulatory Analysis

The CPSA and FHSA require the Commission to publish a preliminary regulatory analysis of the proposed rule and its reasonable alternatives. This includes a discussion of the likely benefits and costs of the proposed rule and its reasonable alternatives. The Commission's preliminary regulatory analysis was published in the January 29, 1999, proposal. The additional requirement proposed in this notice does not significantly affect the results of that analysis. This new requirement would result in negligible additional costs to manufacturers, and its benefits would be small due to the small number of incidents.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (''RFA'') requires the Commission to address and give particular attention to the economic effects of the proposed rule on small entities. The original proposal's preliminary regulatory flexibility analysis concluded that the rule proposed at that time would not have a significant adverse effect on a substantial number of small entities. Because the additional requirement being proposed in this notice will not significantly increase the cost to manufacturers, the Commission certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

E. Preliminary Environmental Assessment

The proposed rule is not expected to have a significant effect on the materials used in the production and packaging of bunk beds, or in the number of units discarded after the rule becomes effective. Therefore, no significant environmental effects would result from the proposed mandatory rule for bunk beds.

F. Opportunities for Comment

Written comments limited to the issues raised by the additional requirement proposed in this notice may be submitted until September 22, 1999. There also will be an opportunity for interested parties to present oral comments on these issues on July 29, 1999. See the information under the headings **DATES** and **ADDRESSES** at the beginning of this notice. Any oral comments will be part of the rulemaking record.

Persons presenting oral comments should limit their presentations to approximately 10 minutes, exclusive of any periods of questioning by the Commissioners or the CPSC staff. The Commission reserves the right to further limit the time for any presentation and to impose restrictions to avoid excessive duplication of presentations.

List of Subjects in 16 CFR Parts 1213, 1500, and 1513

Consumer protection, Infants and children.

Effective date. The Commission originally proposed that the rule become effective 180 days after publication of the final rule. The Commission believes that the additional requirement proposed in this notice will cause only minor changes to presently produced bunk beds. Accordingly, manufacturers should still be able to make any modification to their bunk beds within the 180-day delayed effective date originally proposed.

In the **Federal Register** of March 3, 1999, the Commission proposed to amend Title 16, Chapter II, Subchapters B and C, of the Code of Federal Regulations by adding parts 1213 and 1513 and amending part 1500. For the reasons set out in the preamble, the Commission proposes the following additions to that proposal, as set forth below.

PART 1213—[AMENDED]

1. The authority citation for part 1213 continues to read as follows:

Authority: 15 U.S.C. 2056, 2058.

§ 1213.3 [Amended]

2. A new § 1213.3(b)(4) is added to read as follows:

* * * * *

(b) * * *

(4) All portions of the boundary of any opening required by §§ 1213.4(c)(1) and (2) to be probed by the wedge block of Fig. 1 this part, and that permits free passage of a 9-inch diameter sphere, must conform to the neck entrapment requirements of § 1213.4(c)(3).

§ 1213.4 [Amended]

3. A new § 1213.4(c)(3) is added to read as follows:

* * * * *

(c) * * *

(3) All portions of the boundary of any opening that is required to be probed by the wedge block of Fig. 1 of this part by paragraphs (c)(1) and (c)(2) of this section, and that permits free passage of a 9-inch diameter sphere, must satisfy the requirements of paragraphs (c)(3)(i) and (c)(3)(ii) of this section addressing neck entrapment.

(i) Insert the ''A'' section of the test template shown in Fig. 2 of this part into the portion of the boundary of the opening to be tested, with the plane of the template in the plane of the opening and with the centerline of the top of the template (as shown in Fig. 2 of this part) aligned parallel to the centerline of the opening, until motion is stopped by contact between the test template and the boundaries of the opening (see Fig. 3 of this part). By visual inspection, determine if there is simultaneous contact between the boundary of the opening and both sides of the ''A'' section of the template. If simultaneous contact occurs, mark the contact points on the boundary of the opening and conduct the additional test described in paragraph (c)(3)(ii) of this section.

(ii) To check the potential for neck entrapment, place the neck portion of the ''B'' section of the template into the opening, with its plane perpendicular to both the plane of the opening and the centerline of the opening (see Fig. 4 of this part). If the neck portion of the ''B'' section of the template completely enters the opening (passes 0.75 inch or more beyond the points previously contacted by the ''A'' section of the template), the opening is considered to present a neck entrapment hazard and fails the test, unless its lower boundary slopes downward at 45 degrees or more for the whole distance from the narrowest part of the opening the neck can reach to the part of the opening that will freely pass a 9-inch diameter sphere.

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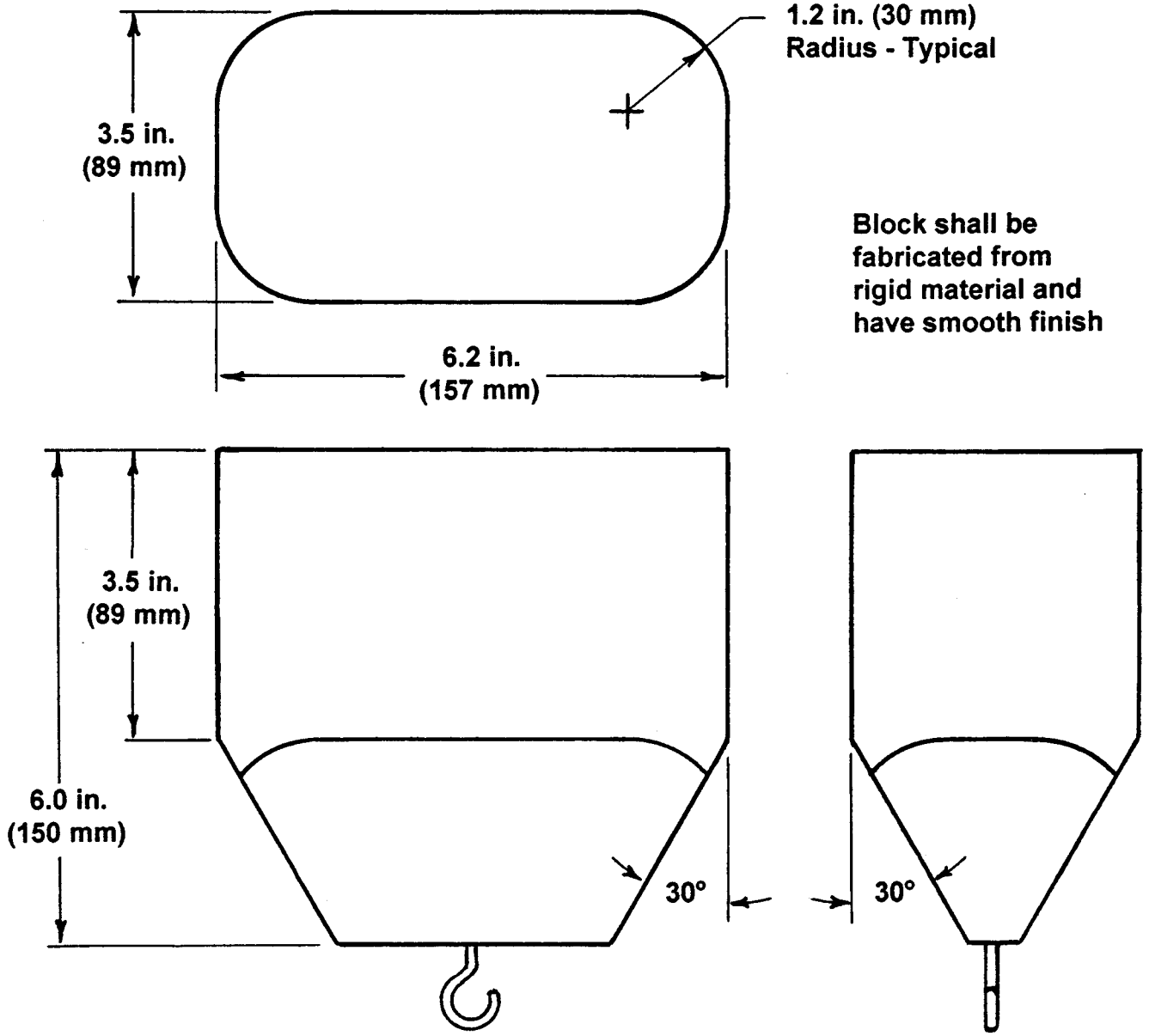
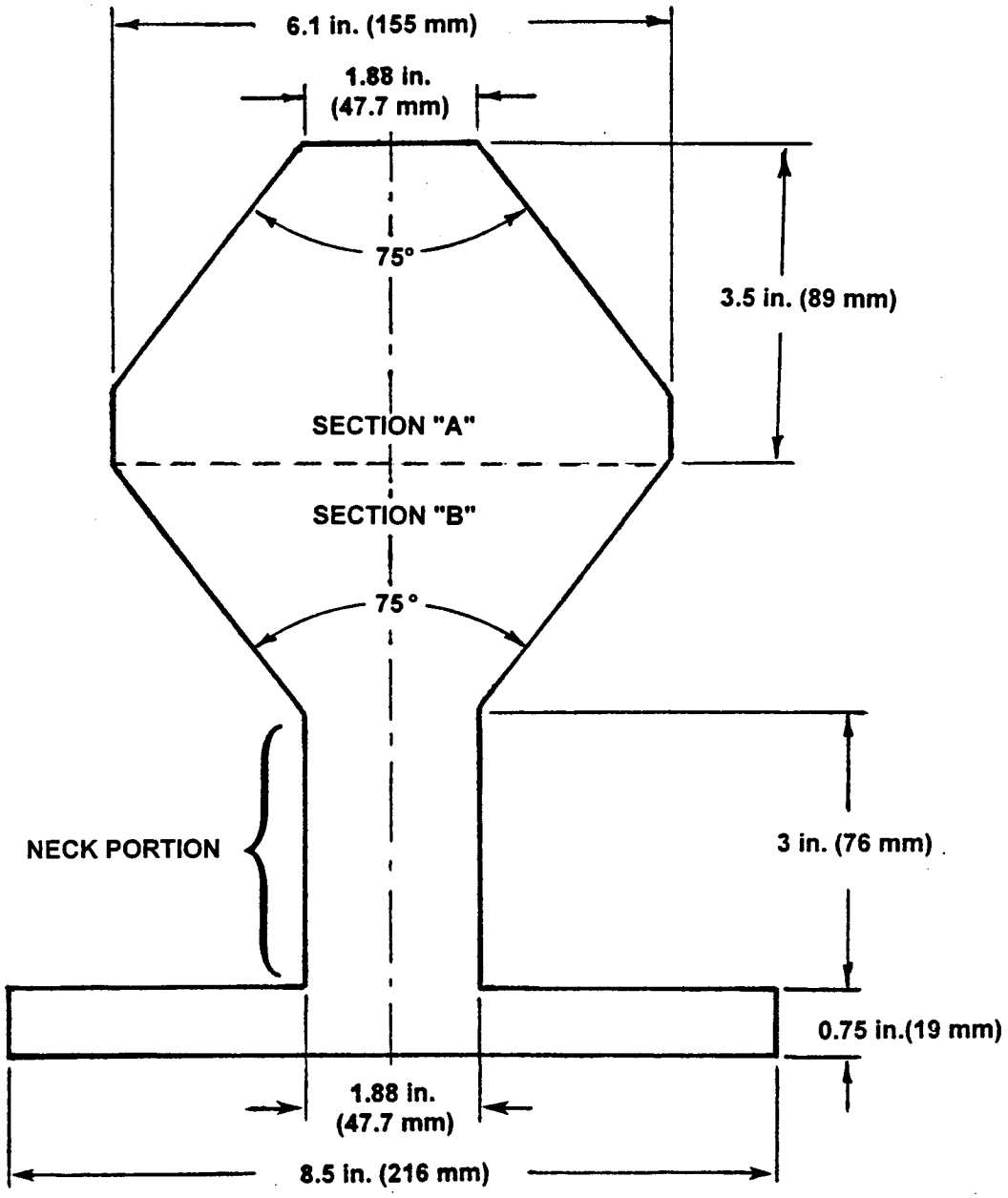


Figure 1 to Part 1213 - Wedge Block for Tests in § 1213.4(a), (b) and (c)



NOTE – Template to be constructed from any rigid material 0.75 in. (19 mm) thick

Fig. 2 – Test Template for Neck Entrapment

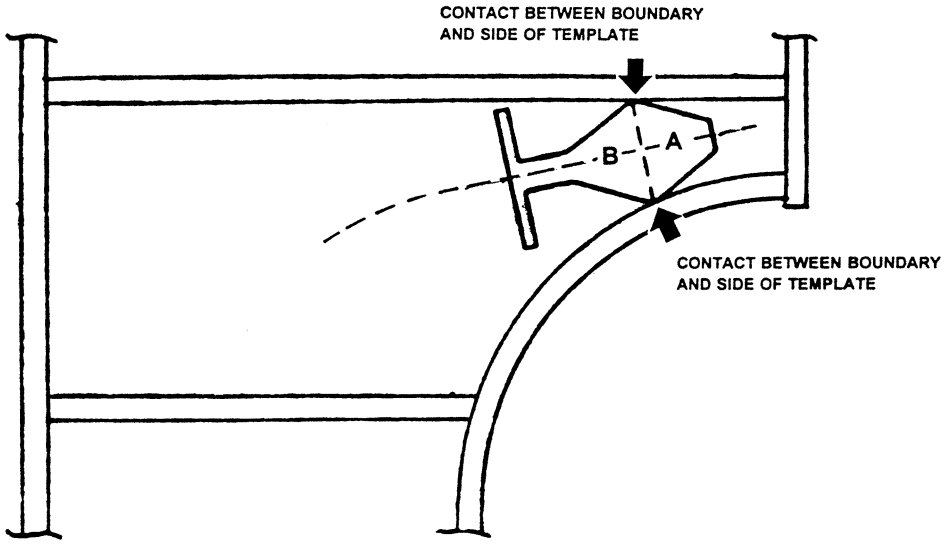


Fig. 3 - Motion of Test Template Arrested by Simultaneous Contact with Both Sides of "A" Section and Boundaries of Opening

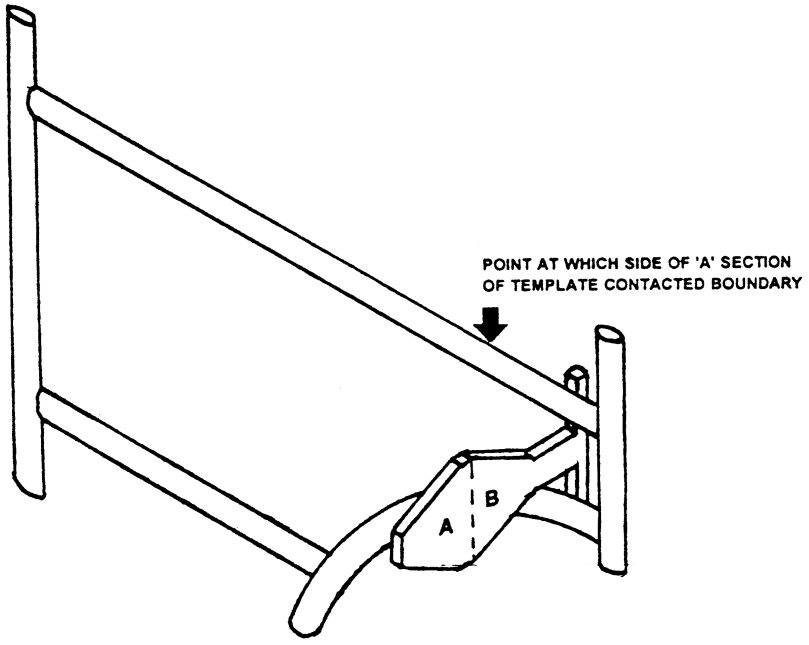


Fig. 4 – Neck Portion of "B" Section of Template Enters Completely into Opening

PART 1513—[AMENDED]

4. The authority citation for part 1513 continues to read as follows:

Authority: 15 U.S.C. 1261(f)(1)(D), 1261(5), 1262(e)(1), 1262(f)–(i).

§ 1513.3 [Amended]

5. A new § 1513.3(b)(4) is added to read as follows:

* * * * *

(b) * * *

(4) All portions of the boundary of any opening required by §§ 1513.4(c)(1) and (2) to be probed by the wedge block of Fig. 1 of this part, and that permits free passage of a 9-inch diameter sphere, must conform to the neck entrapment requirements of § 1513.4(c)(3).

§ 1513.4 [Amended]

6. A new § 1513.4(c)(3) is added to read as follows:

* * * * *

(c) * * *

(3) All portions of the boundary of any opening that is required to be probed by the wedge block of Fig. 1 of this part by paragraphs (c)(1) and (c)(2) of this section, and that permits free passage of a 9-inch diameter sphere, must satisfy the requirements of paragraphs (c)(3)(i) and (c)(3)(ii) of this section addressing neck entrapment:

(i) Insert the ''A'' section of the test template shown in Fig. 2 of this part into the portion of the boundary to be tested, with the plane of the template in the plane of the opening and with the centerline of the top of the template (as shown in Fig. 2 of this part) aligned parallel to the centerline of the opening, until motion is stopped by contact between the test template and the boundaries of the opening (see Fig. 3 of this part). By visual inspection, determine if there is simultaneous contact between the boundary of the opening and both sides of the ''A'' section of the template. If simultaneous contact occurs, mark the contact points on the boundary of the opening and conduct the additional test described in paragraph (c)(3)(ii) of this section.

(ii) To check the potential for neck entrapment, place the neck portion of the ''B'' section of the template into the opening, with its plane perpendicular to both the plane of the opening and the centerline of the opening (see Fig. 4 of this part). If the neck portion of the ''B'' section of the template can completely enter the opening (passes 0.75 inch or more beyond the points previously contacted by the ''A'' section of the template), the opening is considered to present a neck entrapment hazard and fails the test, unless its lower boundary slopes downward at 45 degrees or more for the whole distance from the narrowest part of the opening the neck can reach to the part of the opening that will freely pass a 9-inch diameter sphere.

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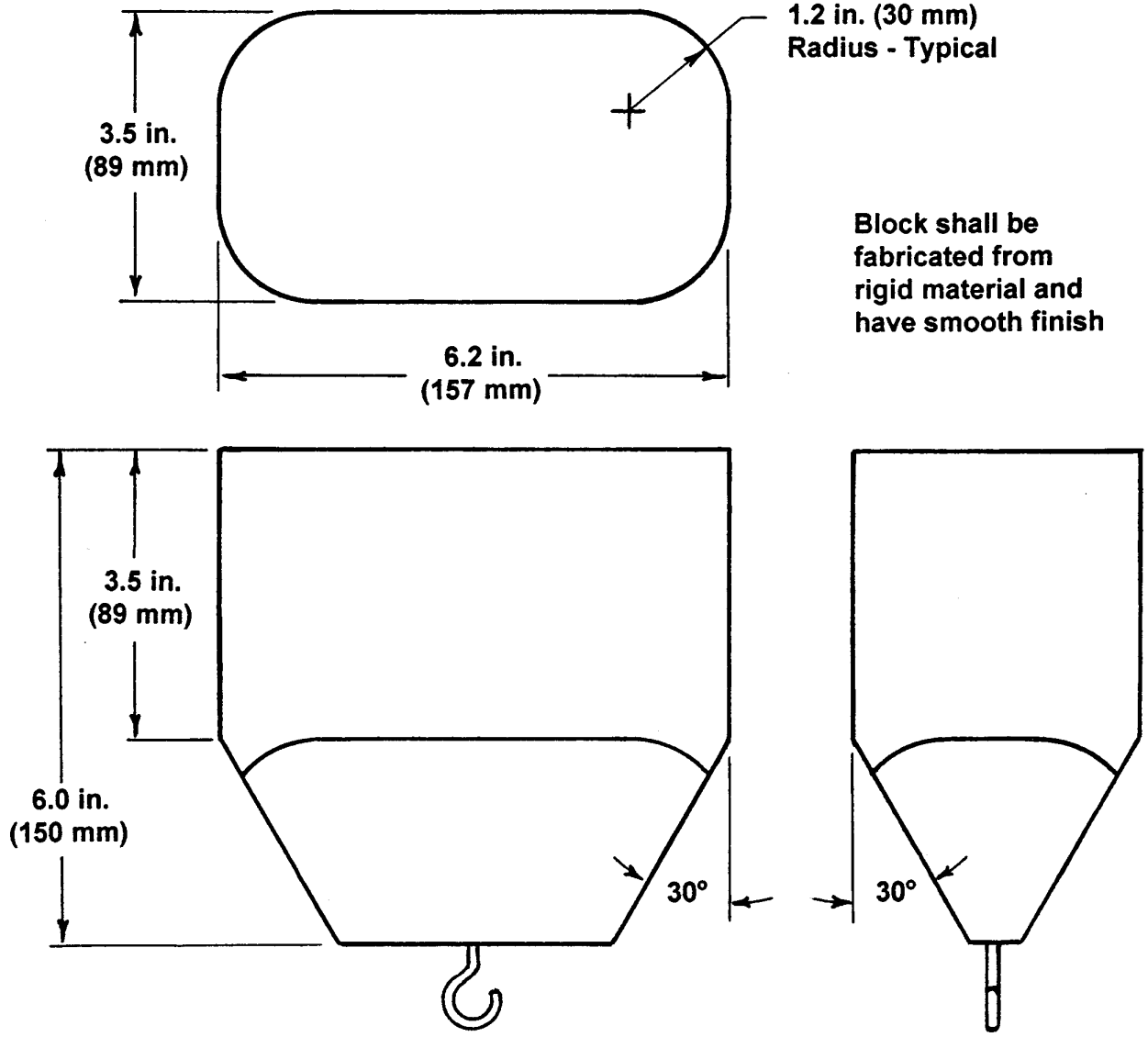
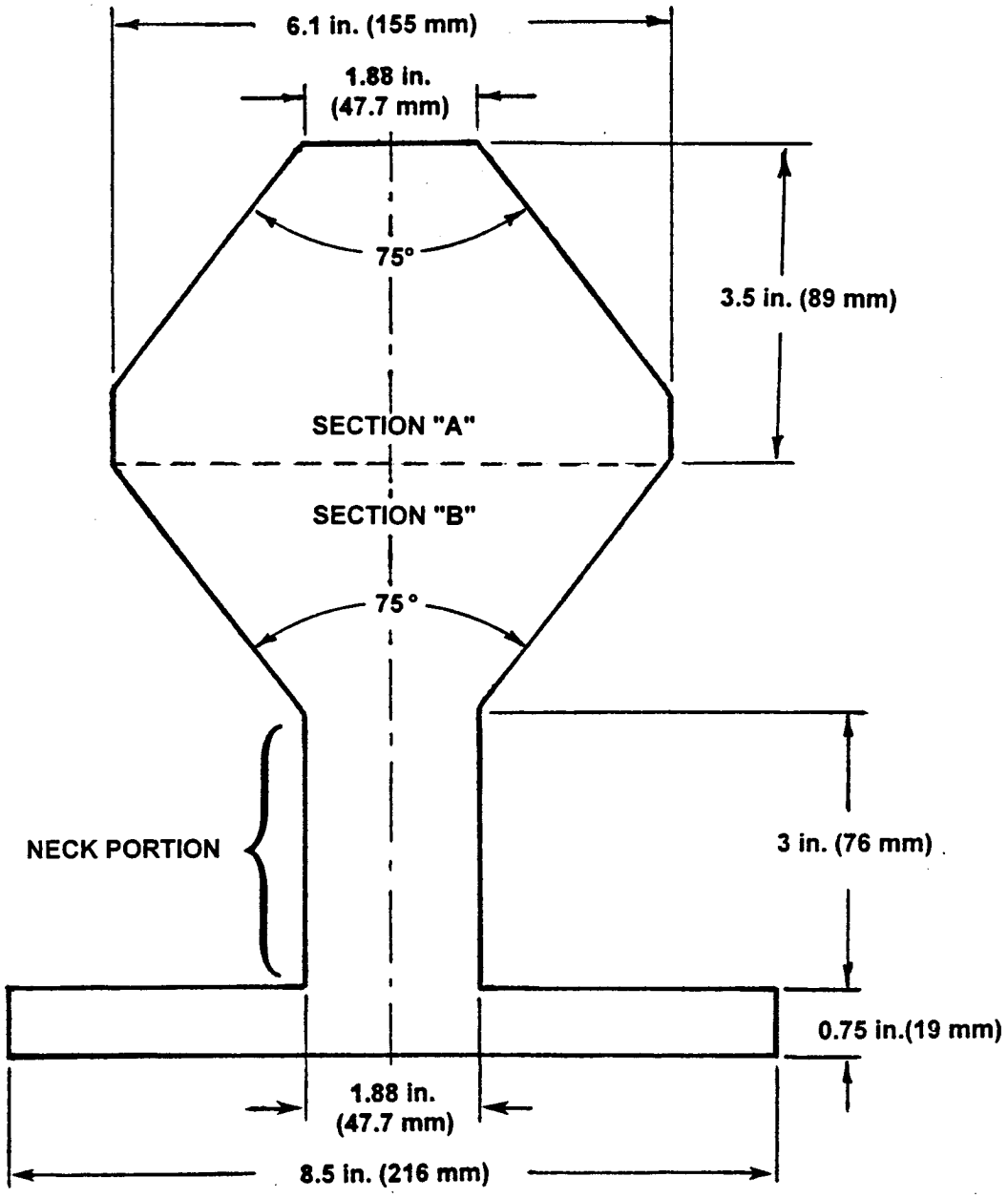


Figure 1 to Part 1213 - Wedge Block for Tests in § 1213.4(a), (b) and (c)



NOTE – Template to be constructed from any rigid material 0.75 in. (19 mm) thick

Fig. 2 – Test Template for Neck Entrapment

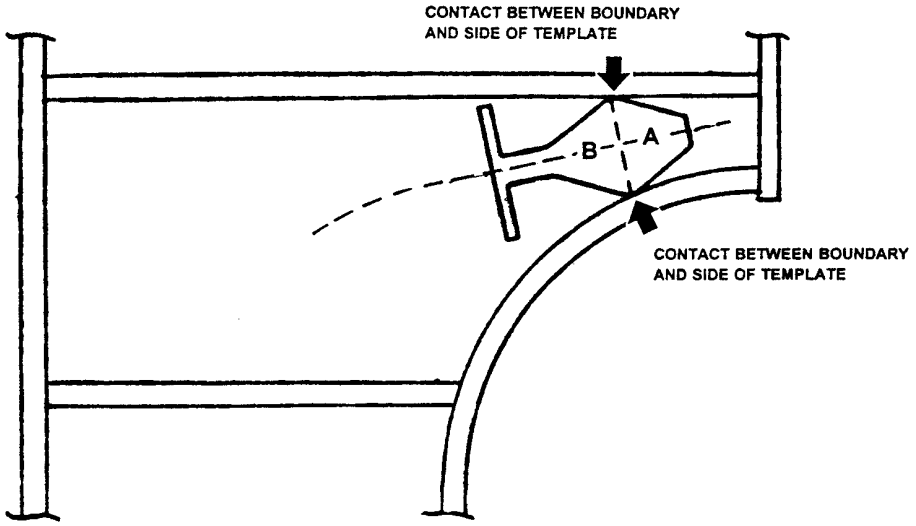


Fig. 3 - Motion of Test Template Arrested by Simultaneous Contact with Both Sides of "A" Section and Boundaries of Opening

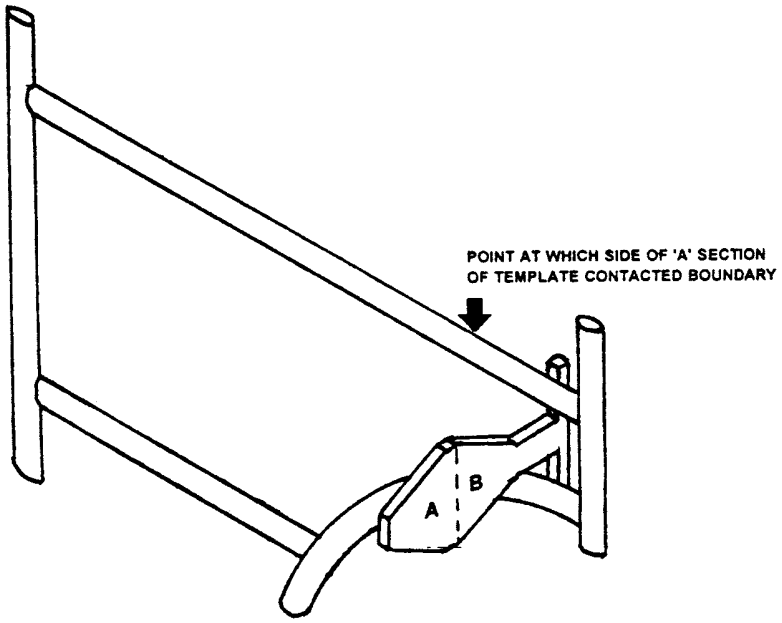


Fig. 4 – Neck Portion of "B" Section of Template Enters Completely into Opening

Dated: June 30, 1999.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 99–17087 Filed 7–8–99; 8:45 am]

BILLING CODE 6355–01–C

DEPARTMENT OF JUSTICE

28 CFR Part 5

[AG Order No. 2229–99]

RIN 1105–AA45

Foreign Agents Registration Act

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: The Department of Justice proposes to amend its existing regulations implementing the Foreign Agents Registration Act of 1938, as amended (FARA or the Act). The proposed rule would establish new regulations needed as a result of the passage of the Lobbying Disclosure Act of 1995 (LDA) and the Lobbying Disclosure Technical Amendments Act of 1998 (LDTAA), both of which amended FARA. The proposed regulations clarify the scope of the amended Act and some exemptions to the Act, and make technical amendments to existing regulations.

DATES: Written comments must be submitted on or before September 7, 1999.

ADDRESSES: Please address all written comments concerning this proposed rule to Marshall R. Williams, Chief, Registration Unit, Internal Security Section, Criminal Division, United States Department of Justice, Washington, DC 20530.

FOR FURTHER INFORMATION CONTACT: Marshall R. Williams, Chief, Registration Unit or Heather H. Hunt, Attorney, Registration Unit on (202) 514–1216 or by facsimile on (202) 514–2836. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Under the Foreign Agents Registration Act of 1938 (FARA or the Act), 22 U.S.C. 611–621, agents of foreign principals are required to register with the Department of Justice in order to make periodic public disclosure of their relationship with the foreign principal, activities on behalf of the foreign principal, and receipts and disbursements in support of these activities. In the Lobbying Disclosure Act of 1995, Public Law 104–65 (LDA), and the Lobbying Disclosure Technical Amendments Act of 1998, Public Law 105–166 (LDTAA), Congress amended FARA in several respects. First, Congress generally narrowed the scope of FARA to agents of foreign governments and foreign political parties. Under new section 3(h) of FARA, 22 U.S.C. 613(h), agents of foreign principals other than foreign governments or foreign political parties need not register under FARA if such agents engage in lobbying activities and register under the LDA. Second, Congress repealed section 1(q), 22 U.S.C. 611(a), which had provided a safe harbor specifying circumstances in which agents of multinational corporations would be exempt from registration under section 3(d)(2) of the Act, 22 U.S.C. 613(d)(2). When Congress authorized registration under the LDA rather than FARA for lobbying activities on behalf of foreign principals other than foreign governments and foreign political parties, section 1(q) became largely unnecessary.

In addition, in the LDA Congress clarified the applicability of an exemption in section 3(g), 22 U.S.C. 613(g), for legal representation of a foreign principal in certain proceedings. Finally, Congress substituted the term ''informational materials'' for the term ''political propaganda'' throughout FARA, except in section 4(e), 22 U.S.C. 614(e), which concerns the dissemination of materials on behalf of the foreign principal, and in section 11, 22 U.S.C. 621, which concerns the filing of a semi-annual report with Congress.

These amendments require changes in regulations implementing, among others, sections 3(d)(2), 3(g), 3(h) and 4 of FARA. First, this proposed rule clarifies the reach of section 3(d)(2) in light of the repeal of section 1(q) of FARA. Section 3(d)(2) exempts from registration under FARA activities of a political nature ''not serving predominantly a foreign interest.'' Under the rule, activities of an agent on behalf of a foreign commercial interest, even if the activities are political in nature and are directed or controlled by a foreign government or foreign political party, do not require registration under FARA because such activities do not ''serve predominantly a foreign interest'' for purposes of 3(d)(2). However, the new regulation clarifies that even after the deletion of section 1(q), any person, including a foreign or domestic corporation, who engages in political activities, not of a commercial nature, on behalf of a foreign government or foreign political party is required to register under FARA, as these activities will ''serve predominantly a foreign interest'' and thus not be exempt under section 3(d)(2).

Second, the rule clarifies the circumstances in which agents of foreign principals, other than foreign governments or foreign political parties, can claim the new exemption provided in section 3(h), and clarifies the reach of the revised ''attorneys' exemption'' in section 3(g). In addition, the proposed rule strikes the term ''political propaganda'' wherever it appears in the regulations and substitutes the LDA term, ''informational materials.'' Finally, the rule makes certain technical amendments to the existing regulations to delete reference to other repealed sections of the Act and to enable the Registration Unit to more effectively administer the statute by allowing for electronic filing in the future.

Certifications and Determinations

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this proposed rule and, by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities. The rule primarily affects those persons required to register pursuant to FARA, currently approximately 525 primary registrants and 2,464 individual short form registrants.

This proposed rule has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The Department of Justice has determined that it does not constitute ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and accordingly it has not been reviewed by the Office of Management and Budget.

In addition, the Department of Justice certifies that this rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. The 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 the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Furthermore, 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 one 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.

Finally, this rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on

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.

List of Subjects in 28 CFR Part 5

Aliens, Foreign relations, Reporting and recordkeeping requirements, Security measures.

Accordingly, the Department of Justice proposes to amend part 5 of title 28 of the Code of Federal Regulations, chapter I, as follows:

PART 5—ADMINISTRATION AND ENFORCEMENT OF FOREIGN AGENTS REGISTRATION ACT OF 1938, AS AMENDED

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

Authority: 28 U.S.C. 509, 510; section 1, 56 Stat. 248, 357 (22 U.S.C. 620); title I, Pub. L. 102–395, 106 Stat. 1828, 1831 (22 U.S.C. 612 note).

§ 5.5 [Amended]

2. a. Amend § 5.5 in paragraph (d)(10) by adding the words ''informational materials,'' following ''reports,''.

b. Amend § 5.5 in paragraph (d)(11) by adding the words ''informational materials,'' following ''reports,''.

§ 5.100 [Amended]

3. a. Amend § 5.100 in paragraph (c) by removing ''1 (q),''.

b. Amend § 5.100 in paragraph (d) by removing ''1 (q),''.

§ 5.200 [Amended]

4. Amend § 5.200 in paragraph (b) by removing the words ''Form OBD–63'' and adding, in their place, the words ''a form provided by the Registration Unit''.

§ 5.201 [Amended]

5. a. Amend § 5.201 in paragraph (a)(1) by removing the words ''Form OBD–67'' and adding, in their place, the words ''a form provided by the Registration Unit''.

b. Amend § 5.201 in paragraph (a)(2) by removing the words ''Form OBD–65'' and adding, in their place, the words ''a form provided by the Registration Unit''.

§ 5.202 [Amended]

6. a. Amend § 5.202 in paragraph (b) by adding the work ''registrable'' before the word ''activity''.

b. Amend § 5.202 in paragraph (e) by removing the words ''Form OBD–66'' and adding, in their place, the words ''a form provided by the Registration unit''.

§ 5.203 [Amended]

7. Amend $5.203 in paragraph (a) by removing the words ''Form OBD–64'' and adding, in their place, the words ''a form provided by the Registration Unit''.

§ 5.204 [Amended]

8. Amend § 5.204 in paragraph (a) by removing the words ''Form OBD–68'' and adding, in their place, the words ''a form provided by the Registration Unit''.

§ 5.205 [Amended]

9. Amend § 5.205 in paragraph (a) by removing the words ''OBD–64'' and adding, in their place, the words ''the supplemental statement form.

§ 5.206 [Amended]

10. Amend § 5.206 in paragraph (b) by adding the words ''or if it is filed in an electronic format acceptable to the registration Unit'' following the words ''ink''.

11. Revise paragraph (c) of § 5.304 to read as follows:

§ 5.304 Exemptions under sections 3(d) and (e) of the Act.

* * * * *

(c) For the purpose of section 3(d)(2) of the Act, the term ''other activities not serving predominantly a foreign interest'' includes political activities on behalf of foreign commercial interests, even if such activities are directed or controlled by a foreign government or foreign political party. The term does not include other political activities that are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in substantial part by a government of a foreign country or a foreign political party.

* * * * *

12. Revise paragraph (a) of § 5.306 to read as follows:

§ 5.306 Exemption under section 3(g) of the Act.

* * * * *

(a) Attempts to influence of persuade agency personnel or officials other than in the course of judicial proceedings, criminal or civil law enforcement inquiries, investigations, or proceedings, or agency proceedings required by statute or regulation to be conducted on the record, shall include only such attempts to influence or persuade with reference to formulating, adopting, or changing the domestic or foreign policies of the United States of with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party; and

* * * * *

§ 5.306 [Amended]

13. Amend § 5,306 in the last sentence of paragraph (b) by removing the word ''like'' and adding, in its place, the word ''fall''.

14. Add § 5.307 to read as follows:

§ 5.307 Exemption under section 3(h) of the Act.

For the purpose of section 3(h) of the Act, the burden of establishing that registration under the Lobbying Disclosure Act of 1995 (LDA), 2 U.S.C. 1601 *et seq.*, has been made shall fall upon the person claiming the exemption. The Department of Justice will accept as prima facie evidence of registration a duly executed registration statement filed pursuant to the LDA. In no case where a foreign government or foreign political party is the ultimate foreign principal will the exemption under section 3(h) be recognized.

§ 5.400 [Amended]

15. a. Amend the heading of § 5.400 by removing the words ''political propaganda'' and adding, in their place, the words ''informational materials''.

b. Amend § 5.400 in paragraph (a) by removing the words ''two copies of each item of political propaganda'' and adding, in their place, the words ''informational materials'', and by adding, before the period, the words ''no later than 48 hours after the beginning of the transmittal of the informational materials''.

c. Amend § 5.400 in paragraph (b) by removing the words ''two copies of an item of political propaganda'' and adding, in their place, the words ''informational materials'' and by removing the word ''material'' and adding, in its place, ''materials''.

d. Amend § 5.400 in the first sentence of paragraph (c) by removing the words ''two copies of a motion picture containing political propaganda'' and adding, in their place, the words ''a copy of a motion picture''.

§ 5.401 [Removed]

16. Remove § 5.401.

§ 5.402 [Amended]

17. a. Revise the heading of § 5.402 as set forth below.

b. Amend § 5.402 in paragraph (a) by removing the words ''political propaganda'' and adding, in their place, the words ''informational materials'', by removing the words ''it has'' and adding, in their place, the words ''they have'', and by removing the word ''its'' and adding in its place, the word ''their''.

c. Amend § 5.402 in paragraph (b) by removing the words ''An item of political propaganda which is'' and adding, in their place, the words ''Informational materials'', and removing the words ''which is'' and adding, in their place, the words ''which are'', and by removing the words ''such item'' and adding, in their place, the words ''such materials''.

d. Amend § 5.402 in paragraph (c) by removing the words ''An item of political propaganda which is'' and adding, in their place, the words ''Informational materials'', and by removing the phrase ''which is not'' and adding, in its place, the phrase ''which are not''.

e. Amend § 5.402 in paragraph (d) by removing the words ''Political propaganda as defined in section 1(j) of the Act which is'' and adding, in their place, the words ''Informational materials that are'', and by removing the words ''is caused'' and adding, in its place, the words ''are caused''.

f. Amend § 5.402 in paragraph (e) by removing the words ''political propaganda as defined in section 1(j) of the Act'' and adding, in their place, the words ''informational materials''.

g. Amend § 5.402 in paragraph (f) by removing the words ''political propaganda'' and adding, in their place, the words informational materials''.

h. Add new paragraph (g) to § 5.402 to read as follows:

§ 5.402 Labeling informational materials

* * * * *

(g) For the purpose of section 4(b) of the Act, a statement will be deemed conspicuous if it prefaces or accompanies the informational materials.

§ 5.500 [Amended]

18. Amend § 5.500 in paragraph (a)(4) by removing the words ''political propaganda has'' and adding, in their place, the words ''informational materials have''.

§ 5.600 [Amended]

19. Amend § 5.600 by adding the words ''informational materials,'' following the words ''Registration statements,'' and by removing the words ''from 10 a.m. to 4 p.m.'' and adding, in their place, the words ''during the posted hours of operation.''.

§ 5.601 [Amended]

20. a. Amend § 5.601 in paragraph (a) by adding the words ''informational materials,'' following the word ''thereto,''.

b. Amend § 5.601 in paragraph (b) by adding the words ''informational materials,'' following the word ''thereto,''.

Dated: June 26, 1999.

Janet Reno,

Attorney General.

[FR Doc. 99–16941 Filed 7–8–99; 8:45 am]

BILLING CODE 4410–14–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 904

[SPATS No. AR–029–FOR]

Arkansas Abandoned Mine Land Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of an amendment to the Arkansas abandoned mine land reclamation plan (Arkansas plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of revisions to the Arkansas plan relating to definitions, purposes of the reclamation program, identification of eligible lands and water, ranking and selection procedures, coordination of reclamation work, acquisition management and disposition of land and water, reclamation on private land, rights of entry, public participation, organizational structure, personnel and staffing policies, purchasing and procurement systems, management accounting, and abandoned mine land (AML) problem description. Arkansas intends to revise its amendment in response to our letter dated September 26, 1994, that we sent to the State under 30 CFR 884.15(d). The amendment also includes changes made at Arkansas' own initiative.

This document gives the times and locations that the Arkansas plan and the amendment to that plan are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that will be followed for the public hearing, if one is requested.

DATES: We will accept written comments until 4:00 p.m., c.d.t., August 9, 1999. If requested, we will hold a public hearing on the amendment on August 3, 1999. We will accept requests to speak at the hearing until 4:00 p.m., c.d.t. on July 26, 1999.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Michael C. Wolfrom, Director, Tulsa Field Office, at the address listed below.

You may review copies of the Arkansas plan, the amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Tulsa Field Office.

Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6547, Telephone: (918) 581–6430

Arkansas Department of Environmental Quality, Russellville Field Office, 1220 West 2nd Street, Russellville, Arkansas 72801, Telephone: (501) 968–7339

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa Field Office. Telephone: (918) 581–6430. Internet: *mwolfrom@tokgw.osmre.gov*.

SUPPLEMENTARY INFORMATION:

I. Background on the Arkansas Plan

On May 2, 1983, the Secretary of the Interior approved the Arkansas plan. You can find background information on the Arkansas plan, including the Secretary's findings, the disposition of comments, and the approval of the plan in the May 2, 1983, **Federal Register** (48 FR 19710). You can find later actions on the Arkansas plan at 30 CFR 904.25 and 904.26.

II. Description of the Proposed Amendment

By letter dated June 16, 1999 (Administrative Record No. AR–565), Arkansas sent us an amendment to its plan under SMCRA. Arkansas sent the amendment in response to a letter dated September 26, 1994, that we sent to the State under 30 CFR 884.15(d). The amendment also includes changes made at Arkansas' own initiative. Below is a summary of the changes proposed by Arkansas. The full text of the amendment is available for your inspection at the locations listed above under **ADDRESSES.**

A. Arkansas proposes to add to the reclamation plan a table of contents with numbered headings and lettered sub-headings.

B. Arkansas proposes to add Part III—''Definitions,'' to the reclamation plan.

C. Part IV—''Policies and Procedures for the State Abandoned Mine Land 'Reclamation Program.''

1. Arkansas proposes to rename section 884.13(c)(1), ''Introduction,'' and to remove the old SMCRA priority 4 (Research and Demonstration) project selection criteria. Arkansas also proposes to move descriptions of abandoned mine problem types from this section to section 884.13(e)(3). Arkansas also proposes to move the

section entitled, ''Corrective Measures to be used in reclamation of Abandoned Mine Lands,'' to section 884.13(e)(3) and to substantially shorten it.

2. Arkansas proposes to add a section, ''Identification of Eligible Lands and Water.'' The changes pertain to reclamation of interim program and bond insolvency sites.

3. Arkansas proposes to add a new subsection to section 884.13(c)(2), ''Ranking and Selection Procedures.'' Also, Arkansas proposes to remove the project ranking matrix form contained in the original reclamation plan and to replace it with a reference to the evaluation criteria contained in the regulations at ASCMRC 874.14.

4. Arkansas proposes to make editorial modifications to section 884.13(c)(3), ''Coordination of Reclamation Work,'' primarily to update the names and relationships of agencies and their roles in abandoned mine land reclamation projects. Arkansas also proposes to revise and enhance the description of AML project coordination efforts related to resource issues.

5. Arkansas proposes to revise section 884.13(c)(4) to reduce redundancy with the state regulations. In addition, Arkansas proposes to remove most of the description of land and water acquisition, directing the reader, instead, to follow procedures established in ASCMRC 879.11.

6. Arkansas proposes to revise section 884.13(c)(5), ''Reclamation on Private Land,'' to reduce redundancy with the state regulations. The proposed revision provides a brief overview of policies for placement, waiver, and satisfaction of liens, and refers the reader to ASCMRC 882.13 and 882.14.

7. Arkansas proposes to revise section 884.13(c)(6), ''Rights of Entry,'' to reduce redundancy with the state regulations. The proposed revision provides a brief overview of policies for entry on private land and refers the reader to ASCMRC 882.13 and 882.14.

8. Arkansas proposes to revise section 884.13(c)(7), ''Public Participation Policies,'' to reduce redundancy with the state regulations and to eliminate obsolete information. The proposed revision provides a brief overview of current public participation practices.

D. Part V—''Administrative and Management Structure.''

1. Arkansas proposes to revise section 884.13(d)(1), ''Organizational Structure,'' to update the organizational charts.

2. Arkansas proposes to revise section 884.13(d)(2), ''Personnel and Staffing Policies,'' to update the list of State and Federal laws, regulations, and policies related to personnel practices.

3. Arkansas proposes to revise section 884.13(d)(3), ''Purchasing and Procurement Systems,'' to comply with 30 CFR 874.16 and 875.20 regarding ''Contractor Responsibility'' and to identify 43 CFR Part 12 as the guidance by which Federal grant funds will be administered in the state program.

4. Arkansas proposes to revise section 884.13(d), ''Management Accounting,'' to identify 43 CFR Part 12 as the guidance for administering Federal grant funds in the state program and to make minor editorial corrections.

E. Part VI—''General Description of AML Problems''

Arkansas proposes to add section 884.13(e) to replace information previously contained in the ''Introduction'' section of the reclamation plan. Section 884.13(e) contains an overview of reclamation problem types and guides the reader to the OSM Abandoned Mine Land Inventory Directive and to OSM's December 30, 1996 (61 FR 68777), AML Program Guidelines for additional information.

III. Public Comment Procedures

Under the provisions of 30 CFR 884.15(a), we are requesting comments on whether the amendment satisfies the applicable State reclamation plan approval criteria of 30 CFR 884.14. If we approve the amendment, it will become part of the Arkansas plan.

Written Comments

Your written comments should be specific and pertain only to the issues proposed in this rulemaking. You should explain the reason for any recommended change. In the final rulemaking, we will not necessarily consider or include in the Administrative Record any comments received after the time indicated under **DATES** or at locations other than the Tulsa Field Office.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.d.t. on July 26, 1999. We will arrange the location and time of the hearing with those persons requesting the hearing. If you are disabled and need special accommodation to attend a public hearing, contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. The hearing will not be held if no one requests an opportunity to speak at the public hearing.

You should file a written statement at the time you request the hearing. This will allow us to prepare adequate responses and appropriate questions. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have spoken.

Public Meeting

If only one person requests an opportunity to speak at a hearing, we may hold a public meeting, rather than a public hearing. If you wish to meet with us to discuss the amendment, request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We also make a written summary of each meeting a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

The Office of Management and Budget (OMB) exempts this rule from review under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State and Tribal abandoned mine land reclamation plans and revisions since each such plan is drafted and promulgated by a specific State or Tribe, not by OSM. Decisions on proposed abandoned mine land reclamation plans and revisions submitted by a State or Tribe are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and 30 CFR Part 884.

National Environmental Policy Act

This rule does not require an environmental impact statement since agency decisions on proposed State and Tribal abandoned mine land reclamation plans and revisions are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

Unfunded Mandates

OSM determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 904

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 1, 1999.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 99–17428 Filed 7–8–99; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 775

RIN 0703–AA51

Policies and Responsibilities For Implementation of the National Environmental Policy Act Within the Department of the Navy

AGENCY: Department of the Navy, DOD.

ACTION: Proposed rule and withdrawal of proposed rule.

SUMMARY: The Department of the Navy (DON) is revising portions of its regulations which establish the responsibilities and procedures for complying with the National Environmental Policy Act (NEPA). This revision clarifies when certain DON actions must be studied to determine their effect on the human environment and what types of activities are excluded from the NEPA documentation requirements. DON is also withdrawing an earlier proposed rule published in the **Federal Register** on February 25, 1999.

DATES: Comments must be received by September 7, 1999.

ADDRESSES: Interested parties should submit written comments to: Mr. Lew Shotten, Office of the Assistant Secretary of the Navy (Installations and Environment), 2000 Navy Pentagon, Washington, DC 20350.

FOR FURTHER INFORMATION CONTACT: Mr. Lew Shotten, Office of the Assistant Secretary of the Navy (Installations and Environment), 703–588–6671.

SUPPLEMENTARY INFORMATION: The Department of the Navy published a document in the **Federal Register** of February 25, 1999, (64 FR 9286) proposing to revise 32 CFR part 775 in its entirety. Due to errors in that submission it is withdrawn and these proposed amendments to 32 CFR part 775 are submitted.

The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) establishes national policy and goals for protection of the environment. Section 102(2) of NEPA contains certain procedural requirements directed toward the attainment of such goals. In particular, all federal agencies are required to give appropriate consideration to the environmental effects of their proposed actions in their decisionmaking and to prepare detailed environmental statements on recommendations or reports significantly affecting the quality of the human environment.

Executive Order 11991 of May 24, 1977, directed the Council on Environmental Quality (CEQ) to issue regulations to implement procedural provisions of NEPA. Accordingly, CEQ issued final NEPA regulations (40 CFR parts 1500–1508) on November 29, 1978, which are binding on all federal agencies as of July 30, 1979. These regulations require each federal agency, as necessary, to adopt implementing procedures to supplement the CEQ regulations. Section 1507.3(b) of the CEQ regulations identifies those sections of the regulations that must be addressed in agency procedures.

The proposed rule revises the Department's implementing regulations that were originally published on August 20, 1990.

Significant changes that these amendments bring about include: revision of and additions to the DON list of approved categories of actions excluded (CATEXed) from further documentation under NEPA; revised criteria for disallowing the application of listed CATEXs; and, assignment of responsibilities to the Assistant Secretary of the Navy (Research, Development and Acquisition), the General Counsel of the Navy, and the Judge Advocate General of the Navy.

The Department of the Navy has determined that this regulation is not a significant rule as defined by Executive Order 12866 and is not subject to the relevant provisions of the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)).

List of Subjects in 32 CFR Part 775

Environmental impact statements.

Accordingly, part 775 of chapter VI of title 32 of the Code of Federal Regulations is proposed to be amended as follows:

PART 775—POLICIES AND RESPONSIBILITIES FOR IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT WITHIN THE DEPARTMENT OF THE NAVY

1. The authority for part 775 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 4321–4361; 40 CFR parts 1500–1508.

2. Section 775.1 is revised to read as follows:

§ 775.1 Purpose and Scope.

(a) To implement the provisions of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, 40 CFR 1500–1508, that direct environmental planning procedures, and to assign responsibilities within the Department of the Navy (DON) for preparation, review, and approval of environmental documents prepared under NEPA.

(b) The policies and responsibilities set out in this part apply to the DON, including the Office of the Secretary of the Navy, and Navy and Marine Corps commands, operating forces, shore establishments, and reserve components. This part is limited to the actions of these elements with environmental effects in the United States, its territories, and possessions.

3. Section 775.2 is revised to read as follows:

§ 775.2 Definitions.

(a) *Action.* A new or continuing activity, program, project, or exercise

which is under the control and direction of the DON and that may change the physical environment or impact natural resources. An action is considered a proposed action and the requirements of this instruction become applicable when the action proponent has identified a program, project, exercise, or other activity and is actively preparing to make a decision among one or more alternative means of executing the program, project, exercise or other activity.

(b) *Action proponent.* The commander, commanding officer, or civilian director of a unit, activity, or organization who initiates a proposal for action, as defined in 40 CFR 1508.23, and who has command and control authority over the action once it is authorized. For some actions, the action proponent will also serve as the decisionmaking authority for that action. In specific circumstances, the action proponent and decisionmaker may be identified in Navy Regulations, other SECNAV Instructions, operational instructions and orders, acquisition instructions, and other sources which set out authority and responsibility within the DON.

(c) *Environmental Impact Statement (EIS).* An environmental document prepared according to the requirements of Council on Environmental Quality (CEQ) regulations (40 CFR parts 1500–1508) for a major action which will have a significant effect on the quality of the human environment.

(d) *Environmental Assessment (EA).* A concise document prepared according to the requirements of 40 CFR parts 1500–1508 which briefly provides sufficient evidence and analysis for determining whether to prepare an EIS. An EA aids compliance with NEPA when no EIS is necessary and facilitates preparation of an EIS when one is necessary.

(e) *Categorical Exclusion (CATEX).* A published category of actions which, under normal conditions, are excluded from further documentation requirements under NEPA.

(f) *Record of Decision (ROD).* An environmental document signed by an appropriate official of the DON. A ROD sets out a concise summary of the final decision and selected measures for mitigation (if any) of adverse environmental impacts of the alternative chosen from those considered in an EIS.

(g) *Finding of No Significant Impact (FONSI).* A document which sets out the reasons why an action not otherwise categorically excluded will not have a significant impact on the human environment, and for which an EIS will not therefore be prepared. A FONSI may be one result of review of an EA.

4. Section 775.3 is revised to read as follows:

§ 775.3 Policy.

(a) It is the DON policy regarding NEPA, consistent with its mission and the environmental laws and regulations of the United States, to:

(1) Initiate the NEPA processes as soon as possible in the course of identifying a proposed action.

(2) Develop and carefully consider a reasonable range of alternatives for achieving the purpose(s) of proposed actions.

(3) Assign responsibility for preparation of action specific environmental analysis under NEPA to the action proponent. The action proponent should understand the plans, analyses, and environmental documents related to that action.

(b) NEPA is intended to ensure that environmental issues are fully considered and incorporated into the federal decision making process. Consequently, actions for which the DON has no decision making authority, such as those carried out under a non discretionary mandate from Congress (e.g., congressional direction to transfer federal property to a particular entity for a particular purpose) or as an operation of law (e.g., reversionary interests in land recorded at the time the property was obtained), are not major federal actions in the context of NEPA and require no analysis or documentation under NEPA or CEQ regulations.

5. Section 775.4 is revised to read as follows:

§ 775.4 Responsibilities.

(a) The Assistant Secretary of the Navy (Installations and Environment) (ASN (I&E)) shall:

(1) Act as principal liaison with the Office of the Secretary of Defense, the Council on Environmental Quality, the Environmental Protection Agency, other federal agencies, Congress, state governments, and the public with respect to significant environmental planning matters.

(2) Direct the preparation of appropriate environmental documents and, with respect to those matters governed by SECNAV Instruction 5000.2 series, advise the Assistant Secretary of the Navy (Research Development and Acquisition (ASN(RD&A)) concerning environmental issues and concerning the appropriate level of environmental planning document needed in any particular circumstance.

(3) Except for proposed acquisition-related actions addressed in paragraph (b)(2) of this section, review, sign, and approve for publication, as appropriate, documents prepared under NEPA.

(4) Establish and publish a list of categorical exclusions for the DON.

(b) The Assistant Secretary of the Navy (Research, Development and Acquisition (ASN(RD&A)) shall, in accordance with SECNAV Instruction 5000.2 series:

(1) Ensure that DON acquisition programs and procurements comply with NEPA.

(2) Review, sign, and approve for publication, as appropriate, environmental documents prepared under NEPA for proposed acquisition-related actions.

(c) The General Counsel of the Navy and the Judge Advocate General of the Navy shall:

(1) Ensure that legal advice for compliance with environmental planning requirements is available to all decision-makers.

(2) Advise the Secretary of the Navy, the Chief of Naval Operations, and the Commandant of the Marine Corps as to the legal requirements that must be met, and the conduct and disposition of all legal matters arising in the context of environmental planning.

(d) The Chief of Naval Operations (CNO) and the Commandant of the Marine Corps (CMC) shall:

(1) Implement effective environmental planning throughout their respective Services.

(2) Prepare and issue instructions or orders to implement environmental planning policies of the DON. Forward proposed CNO/CMC environmental planning instructions or orders to ASN (I&E) and, when appropriate, ASN(RD&A), for review and comment prior to issuance.

(3) Ensure that subordinate commands establish procedures for implementing mitigation measures described in environmental planning documents.

(4) Provide coordination as required for the preparation of environmental documents for actions initiated by non-DON/DOD entities, state or local agencies and/or private individuals for which Service involvement may be reasonably foreseen.

(5) Bring environmental planning matters that involve controversial issues or which may affect environmental planning policies or their implementation to the attention of ASN(I&E), and where appropriate ASN(RD&A), for coordination and determination.

6. Section 775.6 is amended by revising paragraphs (a), (b), (e) and (f) to read as follows:

§ 775.6 Planning considerations.

(a) An EIS must be prepared for proposed major federal actions that clearly will have significant impacts on the human environment. The agency decision in the case of an EIS is reflected in a ROD.

(b) Where a proposed major federal action has the potential for significantly affecting the human environment, but it is not clear whether the impacts of that particular action will in fact be significant, or where the nature of an action precludes use of a categorical exclusion, an EA may be used to assist the agency in determining whether to prepare an EIS. If the agency determination in the case of an EA is that there is no significant impact on the environment, the findings will be reflected in a FONSI. If the EA determines that the proposed action is likely to significantly affect the environment (even after mitigation), than an EIS will be prepared.

* * * * *

(e) Where a federal agency has determined through experience, studies, or prior NEPA analysis that impacts normally resulting from a particular category of actions are not significant, a categorical exclusion (CATEX) may be used to exclude the proposed action from further analysis. Even though a proposed action generally is covered by a listed categorical exclusion, a categorical exclusion will not be used if the proposed action:

(1) Would adversely affect public health or safety;

(2) Involves effects on the human environment that are highly uncertain, involve unique or unknown risks, or which are scientifically controversial;

(3) Establishes precedents or makes decisions in principle for future actions which have the potential for significant impacts;

(4) Threatens a violation of federal, state, or local environmental laws applicable to the Department of the Navy; or

(5) Involves an action that, as determined in coordination with the appropriate resource agency, may:

(i) Have an adverse effect on federally-listed endangered/threatened species or marine mammals;

(ii) Have an adverse effect on coral reefs or on federally designated wilderness areas, wildlife refuges, marine sanctuaries, or park lands;

(iii) Adversely affect the size, function or biological value of wetlands and is not covered by a nation-wide or regional permit;

(iv) Have an adverse effect on archaeological resources or resources (including but not limited to ships, aircraft, vessels and equipment) listed or determined eligible for listing on the National Register of Historic Places;

(v) Result in an uncontrolled or unpermitted release of hazardous substances or require a conformity determination under standards of the Clean Air Act General Conformity Rule.

(f) *Categorical exclusions.* The following are actions which, under normal conditions, are categorically excluded from further documentation requirements under NEPA. These exclusions are separated into two groupings. Group I consists of actions which clearly do not have the potential for causing significant impacts on the human environment and consequently do not meet the basic definition of major federal action in the context of NEPA. Group II consists of actions which have the potential for causing significant impacts on the human environment but which, through experience, studies, or prior NEPA analysis, have been shown not to have significant environmental impacts. A decision to forego preparation of an EA or EIS on the basis of one or more categorical exclusions in Group II shall be documented by identifying the applicable CATEX and describing the proposed action to the extent required to support selection and use of a CATEX. Application of a categorical exclusion does not affect the applicability of other laws/regulations (e.g., Endangered Species Act, Clean Water Act, and National Historic Preservation Act) to the proposed action.

(1) Group I Categorical Exclusions:

(i) Routine fiscal, administrative, and recreation/welfare activities, including administration of contracts;

(ii) Routine law and order activities performed by military personnel, military police, or other security personnel, including physical plant protection and security;

(iii) Routine use and operation of existing facilities, laboratories, and equipment;

(iv) Administrative studies, surveys, and data collection;

(v) Issuance or modification of administrative procedures, regulations, directives, manuals, or policy;

(vi) Military ceremonies;

(vii) Routine procurement of goods and services;

(viii) Routine repair and maintenance of buildings, facilities, vessels, aircraft and equipment associated with existing operations and activities (e.g., localized pest management activities, minor erosion control measures, painting, refitting);

(ix) Training of an administrative or classroom nature;

(x) Routine personnel actions;

(xi) Routine movement of mobile assets (such as ships and aircraft) for homeport reassignments, for repair/overhaul, or to train/perform as operational groups where no new support facilities are required;

(xii) Routine procurement, management, storage, handling, installation, and disposal of commercial items, where the items are used and handled in accordance with applicable regulations (e.g., consumables, electronic components, computer equipment, pumps).

(2) Group II Categorical Exclusions:

(i) Actions to conform or provide conforming use specifically required by new or existing applicable legislation or regulations, (e.g., hush houses for aircraft engines, scrubbers for air emissions, improvements to stormwater and sanitary and industrial wastewater collection and treatment systems, and installation of fire fighting equipment);

(ii) The modification of existing systems or equipment when the environmental effects will remain substantially the same, and the use is consistent with applicable regulations;

(iii) Movement, handling and distribution of materials, including hazardous materials/wastes that when moved, handled, or distributed are in accordance with applicable regulations;

(iv) New activities conducted at established laboratories and plants, (including contractor-operated laboratories and plants) where all airborne emissions, waterborne effluent, external ionizing and non-ionizing radiation levels, outdoor noise, and solid and bulk waste disposal practices are in compliance with existing applicable federal, state, and local laws and regulations;

(v) Studies, data, and information gathering that involve no permanent physical change to the environment, (e.g., topographic surveys, wetlands mapping, surveys for evaluating environmental damage, and engineering efforts to support environmental analyses);

(vi) Temporary placement and use of simulated target fields (e.g., inert mines, simulated mines, or passive hydrophones) in fresh, estuarine, and marine waters for the purpose of military training exercises or research, development, test and evaluation;

(vii) Installation and operation of passive scientific measurement devices (e.g., antenna, tide gauges, weighted hydrophones, salinity measurement devices, and water quality measurement devices) where use will not result in

changes in operations tempo and is consistent with applicable regulations;

(viii) Short term increases in air operations up to 50 percent of the typical operation rate, or increases of 50 operations per day, whichever is less;

(ix) Decommissioning, disposal, or transfer of Navy vessels, aircraft, vehicles, and equipment when conducted in accordance with applicable regulations, including those regulations applying to removal of hazardous materials;

(x) Non-routine repair, renovation, and donation or other transfer of structures, vessels, aircraft, vehicles, landscapes or other contributing elements of facilities listed or eligible for listing on the National Register of Historic Places which will result in no adverse effect;

(xi) Hosting or participating in public events (e.g., air shows, open houses, Earth Day events, and athletic events) where no permanent changes to existing infrastructure (e.g., road systems, parking and sanitation systems) are required to accommodate all aspects of the event;

(xii) Military training conducted on or over nonmilitary land or water areas, where such training is consistent with the type and tempo of existing non-military airspace, land, and water use (e.g., night compass training, forced marches along trails, roads and highways, use of permanently established ranges, use of public waterways, or use of civilian airfields);

(xiii) Transfer of real property from DON to another military department or to another federal agency;

(xiv) Receipt of property from another federal agency when there is no substantial change in land use;

(xv) Minor land acquisitions or disposals where anticipated or proposed land use is consistent with existing land use and zoning, both in type and intensity;

(xvi) Disposal of excess easement interests to the underlying fee owner;

(xvii) Renewals and minor amendments of existing real estate grants for use of government-owned real property where no significant change in land use is anticipated;

(xviii) Land withdrawal continuances or extensions which merely establish time periods and where there is no significant change in land use;

(xix) Renewals and/or initial real estate ingrants and outgrants involving existing facilities and land wherein use does not change significantly (e.g., leasing of federally-owned or privately-owned housing or office space, and agricultural outleases);

(xx) Grants of license, easement, or similar arrangements for the use of existing rights-of-way or incidental easements complementing the use of existing rights-of-way for use by vehicles (not to include significant increases in vehicle loading); electrical, telephone, and other transmission and communication lines; water, wastewater, stormwater, and irrigation pipelines, pumping stations, and facilities; and for similar utility and transportation uses;

(xxi) New construction that is consistent with existing land use and, when completed, the use or operation of which complies with existing regulatory requirements (e.g., a building within a cantonment area with associated discharges/runoff within existing handling capacities);

(xxii) Demolition, disposal, or improvements involving buildings or structures not on or eligible for listing on the National Register of Historic Places and when in accordance with applicable regulations including those regulations applying to removal of asbestos, PCBs, and other hazardous materials;

(xxiii) Acquisition, installation, and operation of utility (e.g., water, sewer, electrical) and communication systems, (e.g., data processing cable and similar electronic equipment) which use existing rights of way, easements, distribution systems, and/or facilities;

(xxiv) Decisions to close facilities, decommission equipment, and/or temporarily discontinue use of facilities or equipment, where the facility or equipment is not used to prevent/control environmental impacts);

(xxv) Maintenance dredging and debris disposal where no new depths are required, applicable permits are secured, and disposal will be at an approved disposal site;

(xxvi) Relocation of personnel into existing federally owned or commercially-leased space that does not involve a substantial change affecting the supporting infrastructure (e.g., no increase in vehicular traffic beyond the capacity of the supporting road network to accommodate such an increase);

(xxvii) Pre-lease exploration activities for oil, gas or geothermal reserves, (e.g., geophysical surveys);

(xxviii) Natural resources management actions where underlying natural resources management decisions have been analyzed in an EA or EIS;

(xxix) Installation of devices to protect human or animal life, (e.g., raptor electrocution prevention devices, fencing to restrict wildlife movement onto airfields, and fencing and grating to prevent accidental entry to hazardous areas);

(xxx) Reintroduction of endemic or native species (other than endangered or threatened species) into their historic habitat when no substantial site preparation is involved;

(xxxi) Temporary closure of public access to DON property in order to protect human or animal life;

(xxxii) Actions similar in type, intensity and setting (including physical location and, where pertinent, time of year) to other actions for which it has been determined, in a DON EA or EIS, that there were no significant environmental impacts;

(xxxiii) Actions which require the concurrence or approval of another federal agency where the action is a categorical exclusion of the other federal agency.

7. Section 775.12 is revised to read as follows:

§ 775.12 Delegation of Authority.

(a) The ASN(I&E) may delegate his/her responsibilities under this instruction for review, approval and/or signature of EISs and RODs to appropriate Executive Schedule/Senior Executive Service civilians or flag/general officers. ASN (I&E), CNO and CMC may delegate all other responsibilities assigned in this instruction as deemed appropriate.

(b) The ASN(RD&A) delegation of authority for approval and signature of documents under NEPA is contained in SECNAV Instruction 5000.2 series which sets out policies and procedures for acquisition programs.

(c) Previously authorized delegations of authority are continued until revised or withdrawn.

Dated: June 29, 1999.

Ralph W. Corey,

Commander, U.S. Navy, Judge Advocate General's Corps, Alternate Federal Register Liaison Officer.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 131

[FRL–6373–7]

RIN 2040–AD33

EPA Review and Approval of State and Tribal Water Quality Standards

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is proposing to change the regulation that specifies when new and revised State and Tribal water quality standards become effective for Clean Water Act purposes. Under the proposal, new and revised standards adopted after the effective date of the final rule will not be used for Clean Water Act purposes until approved by EPA, unless such new and revised standards are more stringent than the standards previously in effect. The proposal also provides that standards already in effect at the effective date of the new rule may be used for Clean Water Act purposes, whether or not approved by EPA, unless EPA subsequently disapproves them and replaces them with Federal water quality standards.

DATES: EPA must receive comments on this proposed rule on or before August 23, 1999.

ADDRESSES: Send written comments to W–99–05, WQS-Approvals Comment Clerk, Water Docket, MC 4101, U.S. EPA, 401 M Street, SW, Washington, DC 20460. Written comments should include an original and three copies. Electronic comments are encouraged and should be submitted to OW-Docket@epa.gov. Electronic comments must be submitted as an ASCII file or a WordPerfect file, and must be identified by the docket number, W–99–05. The record for this rulemaking is available for inspection from 9:00 to 4:00 p.m., Monday through Friday, excluding legal holidays, at the Water Docket, East Tower Basement, Room EB57, U.S. EPA, 401 M Street, SW, Washington, DC. For access to docket materials, please call (202) 260–3027 to schedule an appointment.

The draft Clean Water Act Water Quality Standards dockets discussed in section III.E. of the **SUPPLEMENTARY INFORMATION** below are available for viewing in the Regional Offices. Regional contacts, addresses, and phone numbers are included in the supplementary section of this preamble.

FOR FURTHER INFORMATION CONTACT: William Morrow, Office of Science and Technology, Standards and Applied Sciences Division, (202) 260–3657.

SUPPLEMENTARY INFORMATION:

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I. Potentially Regulated Entities

Citizens concerned with water quality may be interested in this rulemaking. Entities discharging pollutants to waters of the United States could be indirectly affected by this rulemaking since water quality standards are used in determining National Pollutant Discharge Elimination System (NPDES) permit limits. Potentially regulated entities include:

Category	Examples of potentially affected entities
States, Tribes, and Territories	States, Territories, and Tribes authorized to administer water quality standards.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to regulated by this action once finalized. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the proceeding **FOR FURTHER INFORMATION CONTACT** section.

II. Background

A. Statutory

1. The Role of Water Quality Standards Under the CWA

When the Clean Water Act (CWA or Act) was enacted in 1972, its focus was on the establishment of a system for controlling pollution at the source through imposition of categorical technology-based permit effluent limitations on point sources. However, Congress recognized that such controls would not always be sufficient to meet the goals of the Act, and therefore complemented that technology-based program with the water quality standards program under section 303 of the Act. Under the CWA, water quality standards consist of designated uses for waterbodies, water quality criteria to protect those uses, an antidegradation policy to maintain water quality, and any policies affecting the application and implementation of such standards. Such standards serve both as a description of the desired water quality for particular waterbodies and as a means of ensuring that such quality is attained and maintained.

The CWA prescribes various uses for water quality standards. For example, they are used as benchmarks for evaluating proposals such as basin grants under section 102(c), plans for the Chesapeake Bay under section 117(b)(2), water quality management planning under section 205(j), and contained disposal facilities for dredged spoil under 33 U.S.C. 1293(a). Water quality standards are also the basis for identifying impaired waters under sections 303(d)(1)(A) and 304(1) and developing total maximum daily loads (TMDLs) and waste load allocations under section 303(d)(1)(C). Water quality standards are the foundation for water quality-based effluent limitations for NPDES permits under section 301(b)(1)C), serve to limit variances under section 301(h) and (m), and are a floor when permit limitations are relaxed under section 402(o)(3). Under section 401, they also serve as a basis for granting or denying State or Tribal certifications for federal licenses or permits for activities that may result in a discharge.

2. Adoption, Revision, and Review and Approval of State and Tribal Water Quality Standards

CWA section 303 describes the requirements for adoption, revision, review and approval of water quality standards. Sections 303(a) and (b) provided a transition from the predecessor statute and were designed to ensure that States have water quality

standards for both interstate and intrastate waters of the United States. Section 303(c) establishes procedures for the periodic review of, and as needed, revisions to States and Tribes' initial standards. Section 303(c) requires States (and hence Tribes which have authorized to be treated in the same manner as States) from time to time but at least once every three years to hold public hearings for the purpose of reviewing applicable water quality standards and, as appropriate, modifying and adopting new or revised standards. The results of such reviews are to be made available to EPA.

Under section 303(c)(2)(A), whenever a State or authorized Tribe adopts a new or revised standard, the State or Tribe must submit it to EPA. Section 303(c)(3) requires EPA to review such submissions. If the Administrator, within 60 days of such submission, determines that a standard meets the requirements of the Act, ''such standard shall thereafter be the water quality standard for the applicable waters of that State.'' Today's proposed rule addresses the meaning and implementation of the phrase: ''such standard shall thereafter be the water quality standard for the applicable waters of that State.''

If the Administrator determines that a new or revised standard is not consistent with the requirements of the Act, she shall notify the State or authorized Tribe no later than 90 days after the date of the submission and shall specify the changes needed to meet such requirements. If the State or authorized Tribe does not adopt the necessary changes within 90 days of notification, the Administrator is to promptly propose a federal replacement water quality standard pursuant to section 303(c)(4)(A). In addition, section 303(c)(4)(B) authorizes the Administrator to propose a water quality standard whenever she determines one is necessary, for example, if a State or authorized Tribe fails to update an existing standard or adopt a standard where necessary. Whether proceeding under section 303(c)(4)(A) or (B), the Administrator is to promulgate a final water quality standard not later than 90 days after proposal, unless the State or authorized Tribe has in the meantime taken action that addresses EPA's concern.

3. CWA Section 510

As discussed above, the CWA sets out a detailed process to ensure that there will be a complete set of applicable water quality standards available for CWA purposes which meet the minimum requirements of the Act. However, section 510 of the Act also makes it clear that this process was not intended to preempt the right of States to adopt and enforce more stringent standards if they so choose. Thus, if a new or revised standard is more stringent than the otherwise applicable water quality standard, the proposed rule would continue to allow the promulgating State or Tribe to enforce within its boundaries such standards without prior EPA review and approval. Accordingly, the practical consequences of the proposed rule requiring EPA approval before a state water quality standard is considered the ''applicable water quality standard'' are largely confined to new or revised standards which are less stringent than the preceding standards. The interplay between CWA sections 510 and 303 is discussed in more detail in section III.D. below.

B. Regulations

EPA first promulgated a water quality standard regulation in 1975. That regulation specified the minimum requirements for State review and revision of water quality standards, but did not identify the procedures for submitting standards to EPA for review or address whether such standards were effective under the CWA prior to EPA's approval (promulgated Nov. 28, 1975, as 40 CFR 130.17(c), recodified as 40 CFR 35.1550).

In 1983, EPA substantially revised and expanded the water quality standards regulation. This regulation, codified at 40 CFR part 131, specified in more detail the requirements for water quality standards. These revisions included the specific elements that must be in a State's water quality standards, procedures for triennial reviews, and procedures for submitting new or revised standards to EPA. The regulation also for the first time addressed the question of when State standards were effective for purposes of the CWA. Specifically, it provided that ''A State water quality standard remains in effect, even though disapproved by EPA, until the State revises it or EPA promulgates a rule that supersedes the State water quality standard.'' See 40 CFR 131.21(c). As explained in the preamble to the 1983 rule, this provision was based on the view that State water quality standards should be effective under the CWA as soon as they were adopted and effective under State law. In 1991, EPA amended the water quality standards regulation to add procedures by which an Indian Tribe may qualify for the water quality standards and CWA section 401 certification programs.

C. The Alaska Litigation

In 1996, a coalition of environmental groups sued EPA, alleging that EPA was violating the CWA by applying new and revised standards adopted by Alaska before EPA had approved the standards (*Alaska Clean Water Alliance* v. *Clark*, No. C96–1762R (W.D.Wash.)). On July 8, 1997, the United States District Court for the District of Washington (the Court) issued an opinion in this case holding that, notwithstanding § 131.21(c) of EPA's regulation, the plain meaning of CWA section 303(c)(3) was that new or revised State water quality standards did not become effective for CWA purposes until approved by EPA. The parties to the lawsuit have entered into a settlement agreement under with EPA agreed to propose revisions to 40 CFR 131.21(c) consistent with the Court's opinion no later than July 1, 1999, EPA also agreed to take final action within nine months of this proposal. If EPA promulgates a final regulation that substantially conforms to the proposal, plaintiffs have agreed to dismiss their litigation. If the final rule does not substantially conform to the proposal, the plaintiffs retain the right to reactivate the litigation and seek a remedy from the court. Today's proposed rule is issued in accordance with this settlement agreement. EPA seeks comment on both the basic approach and the specific provisions in today's proposal.

III. What Is EPA Proposing and How Will it Work?

A. Summary

This proposed rule makes three principal points. First, today's proposed regulation at § 131.21(c) addresses the issue of when a new or revised State or Tribal water quality standard becomes the ''applicable water quality standard for purposes of the CWA'' in accordance with section 303(c)(3) of the CWA. The proposed rule does not affect the process by which State or Tribal water quality standards are adopted under State or Tribal law, but simply specifies when State or Tribal standards will be recognized as the ''applicable water quality standard'' under the CWA. In accordance with the language of CWA section 303(c)(3) as interpreted by the District Court in the Alaska case, proposed § 131.21(c) provides that new and revised water quality standards adopted after the effective date of the final rule will not become the ''applicable water quality standards for CWA purposes'' until approved by EPA. See proposed § 131.21(c). As discussed above, such ''CWA purposes'' include, but or not limited to, section 303(d)

listings of impaired waters, development of TMDLs, and establishment of water quality-based effluent limitation in NPDES permits.

As discussed in more detail below, today's proposed regulation would affect standards adopted after the effective date of EPA's final rule. (In the context of this proposal, the word ''adopted'' refers to completion of the process under which standards are developed and made effective under State and Tribal law.) EPA is proposing the State and Tribal standards adopted prior to that date, which are considered applicable standards under the current federal water quality standards regulation, will remain the applicable standards. This will include those standards that EPA has approved and continue in effect under State and Tribal law as well as those standards in effect under State and Tribal law that EPA has not yet approved or that EPA has disapproved. This ''grandfathering'' of State and Tribal standards adopted and in effect before EPA's new rule becomes affective merely allows such standards to continue in effect; it does not alter EPA's responsibility to complete its review of any standards it has not yet approved or disapproved or to promulgate replacement standards for any disapproved standards.

Second, today's proposed regulation at § 131.21(c) and (3) state that, after the effect date of the final rule, any changes (i.e, repeals, amendments or additions) to the applicable Sate and Tribal standards must be approved by EPA to be effective for CWA purposes. (This requirement will apply to future changes to ''grandfathered'' standards which automatically become applicable standards under the current rule as well as to changes to future standards which, under the new rule, become applicable standards when approved by EPA.)

Third, the proposed rule makes it clear that, in accordance with CWA section 510, it does not preempt the right of State or Tribes to adopt and enforce within their boundaries water quality standards which are ''not less stringent'' than the applicable water quality standards. What this means, in practical terms, is that if a State or authorized Tribe adopts a standard which is at least stringent as the applicable standard (either a grandfathered standard or a standard adopted and approved after the effective date of the rule), the State or Tribe may immediately use such a standard for CWA purposes, pursuant to § 510, without waiting for EPA to complete its section 303(c)(3) review. The State may also use standards adopted pursuant to § 510 as a basis for conditions in section 401 certifications for federal permits such as EPA-issued NPDES permits.

While EPA review of standards adopted pursuant to § 510 is underway, the State or Tribe can repeal or modify them and such changes would go into effect immediately. However, when EPA completes its review and approves such standards, they become the new applicable CWA water quality standards, and subsequent revisions to them will not be applicable for CWA purposes until approved by EPA (subject again to the State's and Tribe's preserved right under section 510 to adopt and enforce an even more stringent standard).

B. Rationale for Changing § 131.21(c)

As mentioned in the background section above, EPA's current regulations at 40 CFR part 131 provide that new and revised State and Tribal standards are effective for CWA purposes as soon as they are effective under State or Tribal law and that they remain in effect, even if subsequently disapproved by EPA, until superseded by a federal promulgation or changed or withdrawn by the State or Tribe. EPA believed such an approach was necessary to avoid an absence of standards prior to EPA approval. See response to comments for 1983 regulation, 48 FR 51400, 51412 (Nov. 8, 1983): ''This interpretation is necessary because otherwise there would be no standard at all until federal action was completed.'' Over time, however, it became apparent that this approach did not always serve the purposes of the Act, particularly if a revised standard did not meet the requirements of the Act. The Alaska litigation in which EPA's reliance on existing § 131.21(c) was challenged (see II.C. above) caused EPA to re-examine its position.

EPA believes that the approach set forth in today's proposal not only is consistent with the language of section 303(c)(3) but also addresses the practical concern driving the approach in the 1983 regulation. As the Court held, the import of the phrase in section 303(c)(3) ''shall thereafter be the water quality standards'' (emphasis added) is that, until the new or revised standards are approved, they are not considered the applicable standards as a matter of federal law. In addition, EPA has re-examined its earlier concern that the 1983 approach was necessary to avoid a gap in standards until federal review was complete, because states would repeal their old standard when adopting new or revised one. The fact of the matter is that the repeal of the earlier water quality standard would itself be considered a revision to standards. If, as the words of section 303(c)(3) indicate, revisions need to be approved to be effective for CWA purposes, the repeal of the old standard could not be effective until approved by EPA, and hence there would in fact be no gap in standards.

Another concern underlying the 1983 regulation was that requiring EPA approval might delay the use of improved water quality standards. However, as a practical matter, only the implementation of less stringent standards would be delayed under today's proposal, since section 510 provides that nothing in the CWA affects the right of States or Tribes to enforce standards within their boundaries that are equally or more stringent than the federally approved water quality standards. Of course, the mere fact that a standard is less stringent than the previous standard does not mean that it is not justified (e.g., new scientific information may show that a less stringent criterion is in fact protective of the designated uses or the previous criterion may have been based on incomplete or inaccurate information). Having EPA review a new or revised standard before it replaces a more stringent standard simply allows EPA to confirm that the new standard is justified and that it meets the requirements of the CWA.

EPA recognizes that the approach of the proposed rule may change in some respects the relationship between EPA and the States and authorized Tribes. For example, States and authorized Tribes will not be able to base CWA permits on new or revised standards which are less stringent than the predecessor applicable standards unless EPA approves the less stringent standard. On the other hand, there may be less need for federal promulgations to correct deficiencies in State and Tribal standards under the new approach.

C. Options EPA Considered

1. Prospective Effect of the Rule

Because the Court concluded that the CWA on its face required that new and revised State or Tribal water quality standards be approved by EPA before being used for CWA purposes, EPA considered whether the new rule should govern all standards adopted since 1972, or whether it should apply only to standards adopted after this rulemaking takes effect. For the reasons below, EPA proposes that only new and revised State or Tribal water quality standards adopted after the effective date of this rule must be approved to be the applicable water quality standards for purposes of the CWA. Previously

adopted standards that are in effect under State and Tribal law on the effective date of this rule will remain applicable standards. If the State or authorized Tribe repeals or revises such standards after the effective date of the rule, any such revisions or repeal would be subject to the new rule, that is, they would need EPA approval to be effective for CWA purposes.

If EPA were to apply the new interpretation to standards adopted before EPA's final rule, EPA would need to do so consistently. EPA's experience indicates in some cases this would be exceedingly difficult, if not impossible, to do. There are a number of reasons for this. Under the current rule, the approval status of a standard did not affect whether it was the applicable standard for CWA purposes; standards changes have not always been promptly submitted to EPA; and some EPA reviews of standards have not resulted in timely and clear-cut approvals or disapprovals. Confirming in every case that standards currently in effect under State law have been approved by EPA, or, it not, tracking down in each case the last approved predecessor standard, could by a very burdensome task with minimal environmental benefits. For example, if a State or authorized Tribe had reorganized and recodified its water quality standards after approval, it might be difficult today to reconcile the current citations with the citations of the provisions in question when approved. In addition, in the case of standards approved in the 1970's and still in effect, the record of approval could in some instances be difficult to locate, especially in EPA Regional offices where there have been organizational changes and physical relocations of office records over the years. Furthermore, if the last standard which could be clearly demonstrated as approved had later been superseded by other standards a long time ago, it might no longer mesh with the structure of other, approved parts of the State or Tribe's current standards or reflect current science or improved stream conditions. To resurrect such a standard as the applicable standard CWA purposes could in many cases be very artificial, and have uncertain environmental benefits. Finally, the time and effort involved in confirming the status of standards adopted since 1972 would also significantly detract from EPA's ability to make future approval/disapproval decisions in a timely manner. For these reasons, EPA believes that there would be extreme practical problems to applying today's proposed approach to all standards adopted since 1972.

Additionally, changing the status of standards currently on the books could result in confusion, for example, in situations where States or authorized Tribes had in the past relied on the current federal water quality standards regulation to take actions using State or Tribal standards that were not yet approved by EPA. Questions would arise about the need to revisit such State or Tribal actions. While the use of a grandfathering provision excepting such actions from the rule might partially address this problem, EPA believes that it would be difficult to craft, and would not fully eliminate confusion. EPA solicits comment on the approach outlined in today's proposed rule.

2. Disapproved Water Quality Standards

As described above, the proposed rule provides that standards adopted by a State or authorized Tribe before the effective date of the rule (and still in effect under State or Tribal law) will remain the applicable water quality standards for CWA purposes regardless of whether they have been approved, disapproved, or simply not yet acted on by EPA. One option EPA considered was to propose that where such a standard was disapproved by EPA, it would cease to be the applicable standard for CWA purposes as of the effective date of the rule or disapproval date, whichever was later. An advantage of such an option would be to limit circumstances under which inadequate standards could be used. A disadvantage is that there would be no standard to replace the disapproved standard until EPA promulgated a superseding federal standard or the State or authorized Tribe revised the disapproved standard and obtain EPA's approval. This gap could theoretically be filled if the proposed rule also provided that the last previously approved standard could be ''resurrected'' until a new standard was approved or promulgated. However, for the reasons given above, tracking down the predecessor standard in each case would be problematic in these instances as well.

EPA seeks comments on whether the final rule should provide that standards disapproved by EPA prior to the effective date of the final rule should cease to be applicable water quality standards under the CWA. EPA also seeks comments on whether, if it adopts such a provision, the provision should specify that previously approved standards be resurrected and serve as the applicable CWA standard until a replacement for the disapproved standard is adopted by the State or authorized Tribe and approved by EPA, or until EPA promulgates a federal standard.

D. Integration With CWA Section 510

Section 510 of the Act provides that nothing in the Act restricts the right of any State or authorized Tribe (or political subdivision thereof, or interstate agency) to adopt or enforce any standard, as long as it is not less stringent than a standard in effect under the Act. The proposed rule acknowledges this reserved State and Tribal authority by stating explicitly that a State or authorized Tribe may adopt and enforce a water quality standard which is not less stringent than the ''applicable water quality standard'' under the rule. (As explained above, the ''applicable standard'' would be either the standard in effect as of the effective date of the rule, or a superseding approved standard, or a federally promulgated standard.)

Section 510 is self-implementing. This means that a standard adopted under authority preserved by section 510 may be used immediately to control pollution originating in the State or Tribe adopting the standard, without first obtaining EPA approval or EPA concurrence that the standard is ''not less stringent.'' (Of course, it would be prudent for a State or authorized Tribe to consult with EPA if there is any question about the comparative stringency of a new or revised standard.) Before it is approved by EPA and becomes the ''applicable standard'', such a standard can be changed by the State or authorized Tribe. However, until federally approved, the standard does not have any extra territorial effect. Once such a standard is federally approved, it becomes the new ''applicable standard'' and may serve as the basis for NPDES permit limitations on out-of-state (as well as in-state) sources which could affect the waters covered by the standard. (See CWA sections 402(a)(2), 402(b)(5) and (d)(2); *Arkansas* v. *Oklahoma*, 503 U.S. 91 (1992).)

While the use of standards adopted pursuant to § 510 that have not yet been federally approved and thereby transformed into ''applicable standards for purpose of the Act'' is generally within the State or Tribe's discretion, there is an exception. CWA section 301(b)(1)(C), in conjunction with section 402(a), requires that NPDES permits contain limits as needed to meet water quality standards established under authority preserved by section 510, as well as applicable standards established under section 303. Therefore, permitting

authorities must include effluent limitations in NPDES permits as stringent as necessary to meet all water quality standards of the State or authorized Tribe within which the permittee is discharging, including standards adopted pursuant to 510 that have not yet been approved by EPA.

E. Tracking CWA Standards

1. EPA's CWA WOS Docket

In today's proposed rule, EPA, is proposing to rely on the adoption date (for existing standards) and the approval status (for future adoptions) to determine whether or not a State or Tribal standard is an ''applicable standard'' under the CWA. To facilitate identifying whether a given State or Tribal standard is an applicable CWA standard, EPA believes it is important to develop a comprehensive tracking system. Under the current regulation, EPA primarily relies on the standards compilations prepared by States and authorized Tribes to determine the applicable CWA standard. For example, where EPA is the NPDES permitting authority, EPA looks to the State's or authorized Tribe's standards, plus any superseding federal standard that may have been promulgated by EPA, as the basis for developing water quality-based conditions in a permit. Under today's proposed rule, before using a State or tribal standard, EPA would also need to know whether the standard had been in effect under State and Tribal law on the effective date of the final rule, and, if it had not been, whether EPA had approved the State or Tribal standard (see table at § 131.2 (c) in today's proposed regulation). To simplify the process for determining what the CWA standard is at any given time, EPA is proposing to establish a CWA Water Quality Standards (WQS) docket which would contain the applicable CWA standards for every State, authorized Tribe, and Territory. This CWA WQS docket will contain (1) State and Tribal standards adopted prior to, and still in effect under State or Tribal law on, the effective date of the final rule, (2) State or Tribal standards adopted after the effective date of the final rule and approved by EPA, (3) any applicable federal standards promulgated under subpart D to 40 CFR part 131. This CWA WQS docket will be updated regularly by EPA to reflect future EPA approvals and promulgations. This CWA WQS docket will be available to the public to facilitate the public's ability to determine what the applicable CWA standard is for a particular waterbody.

In conjunction with today's proposed rule, EPA has established a draft CWA WQS docket for each State, authorized Tribe, and Territory. The draft CWA WQS docket for each State, authorized Tribe, and Territory is located in the corresponding EPA Regional Office. EPA believes the draft CWA WQS docket contains all the current CWA standards in effect as of July 9, 1999. EPA assembled the draft CWA WQS docket with assistance from State, authorized Tribes, and Territories. While we collectively believe it contains all of the elements of each State's or Tribe's program that is subject to review and approval under section 303(c) of the CWA, we will be checking its accuracy before finalizing the rule. Although the docket is not itself a rule but rather an administrative aid, comments from the public pointing out any omissions or erroneous inclusions are welcome. EPA will continue to work with States, authorized Tribes, and Territories to ensure that the CWA WQS docket is current and complete by the time this rule goes into effect.

EPA believes that, in order for the CWA WQS docket to be useful, it should be in a form that is readily accessible to anyone interested in water quality standards. Establishing hardcopy CWA WQS subdockets in each EPA Regional office EPA's first step in assuring such accessibility. EPA is evaluating long term plans for maintaining the CWA WQS docket, including the possibility of having the CWA WQS docket accessible over the Internet. For example, EPA could establish and maintain a web site where the applicable CWA standard for any State, authorized Tribe, or Territory could be accessed quickly. If this approach is taken, having States and authorized Tribes submit their standards revisions electronically would allow EPA to enter the revisions into an electronic database in a more timely manner. EPA solicits comments on the most effective ways (short term and long term) to make the CWA WQS docket accessible to the public.

Under the existing regulations at 40 CFR 131.21(d), EPA annually publishes in the **Federal Register** a notice of State and Tribal standards that have been approved by EPA since the most previous notice. EPA publishes this notice of approvals to keep the public informed of changes in State and Tribal water quality standards program, and to inform the public that EPA has determined such changes are consistent with the CWA. In today's proposed rule, EPA is proposing to delete this annual reporting requirement in light of our plan to establish a CWA WQS docket. See § 131.21(g) in today's proposed rule. EPA does not see the need to maintain this annual notice of approvals, since the CWA WQS docket will allow anyone to review the applicable CWA standard at anytime. EPA believes the establishment of a CWA WQS docket is an improvement over the existing annual reporting requirement because the full text of the standards themselves will be included, not just a listing of the relevant sections, and because it will be updated whenever there is a change to the applicable standards. EPA solicits comment on replacing the exiting annual reporting requirement of State and Tribal approvals with the establishment of a CWA WQS docket.

As stated above, these draft standards contained in the CWA WQS docket can be viewed in the Regional Offices. Regional contacts, addresses, and phone numbers are listed in the table below.

State	EPA regional office	EPA contact
Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.	EPA Region 1, 1 Congress Street, Suite 1100, CWQ, Boston, MA 02114–2023.	Bill Beckwith, 617–918–1544.
New Jersey, New York, Puerto Rico, Virgin Islands ...	EPA Region 2, 290 Broadway, New York, NY 10007	Wayne Jackson, 212–637–3807.
Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.	EPA Region 3, 1650 Arch Street, Philadelphia, PA 19103–2029.	Ify Davis, 215–814–5453.
Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.	EPA Region 4, Water Division—15th Floor, Atlanta Federal Center, 61 Forsyth Street SW, Atlanta, GA 30303.	Fritz Wagener, 404–562–9267.
Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.	EPA Region 5, Water Division, 77 West Jackson Boulevard, Chicago, IL 60604–3507.	David Pfeifer, 312–353–9024.
Arkansas, Louisiana, New Mexico, Oklahoma, Texas	EPA Region 6, Water Division, 1445 Ross Avenue, First Interstate Bank Tower, Dallas, TX 75202.	Russell Nelson, 214–665–6646.
Iowa, Kansas, Missouri, Nebraska	EPA Region 7, 726 Minnesota Avenue, Kansas City KS 66101.	Larry Shepard, 913–551–7441.

State	EPA regional office	EPA contact
Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.	EPA Region 8, 999 18th Street, Suite 500, Denver CO 80202–2466.	Bill Wuerthele, 303–312–6943.
Arizona, California, Hawaii, Nevada, American Samoa, Guam.	EPA Region 9, Water Division, 75 Hawthorne Street, San Francisco, CA 94105.	Phil Woods, 415–744–1997.
Alaska, Idaho, Oregon, Washington	EPA Region 10, Water Division, 1200 Sixth Avenue, Seattle, WA 98101.	Lisa Macchio, 206–553–1834.

2. Approving Standards Promptly

Section 303(c)(3) of the CWA provides EPA with 60 days to approve, and 90 days to disapprove, water quality standards submitted by States and Tribes. For a variety of reasons, EPA has not always been able to meet these deadlines. Under the current federal water quality standards regulation, delay on the part of EPA in approving State and Tribal revisions to standards has no immediate practical effect, except for the State of Alaska where EPA is already implementing today's proposed changes as a result of the Court's opinion. While the structure of EPA's proposed rule ensures that States and authorized Tribes will not be penalized by past delays, EPA still views the elimination of this backlog as a high priority. EPA headquarters staff are working with EPA Regional Offices, and with States and Tribes, to streamline our approval process and eliminate the backlog.

EPA is taking several steps to improve the timeliness of its approval/disapproval decisions. For example, EPA is improving coordination among the many EPA offices involved in water quality standards approvals. Although, EPA Regional offices have been delegated the authority to make approval/disapproval decisions, the approval/disapproval process involves substantial coordination among several EPA offices. EPA is taking steps to ensure that these offices are providing timely feedback in a coordinated fashion. In addition, EPA is making every effort to communicate to States and Tribes early in the standards revisions process EPA's position with respect to the approvability of specific potential revisions a State or Tribe may be considering. As part of this effort, EPA recently published an updated list of recommended ambient water quality criteria for the protection of human health and aquatic life (see 63 FR 68353) to ensure that States and Tribes have EPA's most current recommendations. In discussions with several States during the development of today's proposal, the States emphasized that in addition to EPA's most current guidance and recommendations, it is necessary to know early in the State regulatory development process whether or not a revision they are considering is inconsistent with the CWA, preferably before the State proposes it for public comment. EPA will continue to discuss with States and Tribes ways to coordinate efforts to improve the standards development process, including ways for EPA to provide input that is both valuable and timely, and for States and Tribes to seek such input.

Under the Endangered Species Act (ESA), EPA's approval of State and Tribal water quality standards revisions is considered a federal action subject to consultation with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) if the standards may affect a federally listed species. Such consultations can in certain cases be time-consuming and delay approval decisions. In recent years, EPA and Services have increased their efforts to achieve greater integration of ESA and CWA Programs. In an effort to coordinate its consultation efforts more efficiently, EPA, the FWS, and NMFS are working at the national level to develop a Memorandum of Agreement (MOA). A draft of the MOA was published in the **Federal Register** for public comment in January 15, 1999 (see 64 FR 2741). The draft MOA contains procedures for enhancing coordination regarding the protection of endangered and threatened species under section 7 of the Endangered Species Act and the Clean Water Act's Water Quality Standards and National Pollution Discharge Elimination System programs. Among a number of objectives, the draft MOA seeks to make ESA consultations more timely and efficient. Approving/disapproving State and Tribal WQS submissions in the CWA time frames is a priority for EPA. EPA, at both Headquarters and its Regional Offices, is working with a number of States and FWS and NMFS to improve the approval/disapproval process and eliminate frequently encountered delays. Based on the feedback from these discussions, EPA will develop more detailed guidance to achieve the goals discussed above.

IV. Regulatory Flexibility Act as Amended by the Small Business Regulatory Enforcement Fairness Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), federal agencies generally are required to conduct an initial regulatory flexibility analysis (IRFA) describing the impact of the regulatory action on small entities as part of a proposed rulemaking. However, under section 605(b) of the RFA, if the Administrator for the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities, the agency is not required to prepare an IRFA. The Administrator certifies, pursuant to section 605(b) of the RFA, that this proposed rule will not have a significant economic impact on a substantial number of small entities. Therefore, the Agency did not prepare an initial regulatory flexibility analysis.

The RFA requires analysis of the impacts of a rule on the small entities *subject to the rule's requirements. See United States Distribution Companies* v. *FERC*, 88 F.3d 1105, 1170 (D.C. Cir. 1996). Todays' proposed rule establishes no requirements applicable to small entities, and so is not susceptible to regulatory flexibility analysis as prescribed by the RFA. (''[N]o [regulatory flexibility] analysis is necessary when an agency determines that the rule will not have a significant economic impact on a substantial number of small entities *that are subject to the requirements of the rule,'' United Distribution* at 1170, *quoting Mid-Tex Elec. Co-op* v. *FERC*, 773 F.2d 327, 342 (D.C. Cir. 1985) (emphasis added by *United Distribution* court).) Today's proposed rule, once finalized, will only have a direct effect on States and authorized Tribes, which by definition are not small entities under the RFA. The Agency is thus certifying that today's proposed rule will not have a significant economic impact on substantial number of small entities, within the meaning of the RFA.

V. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.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 the private sector, $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 why they 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.

Today's proposed rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. The proposed rule does not affect the process by which State or Tribal water quality standards are adopted under State or Tribal law, but simply specifies when a State or Tribal adoption will be recognized as the applicable water quality standard for general CWA purposes. The rule imposes no enforceable duty on any State, local or Tribal governments or the private sector. This, 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 requirements that might significantly or uniquely affect small governments. EPA's proposed rule will only address a single administrative aspect of the water quality standards approval process (i.e. the timing of the ''effectiveness'' of State or Tribal standards under the CWA.) There will be no revisions to existing submission requirements and no revisions to EPA's standard for review. Thus, this proposed rule is not subject to the requirements of section 203 of UMRA.

VI. Regulatory Planning and Review, Executive Order 12866

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 government 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.''

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

VII. Enhancing the Intergovernmental Partnership, Executive Order 12875

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.''

Today's proposed rule does not create a mandate on State, local or trial governments. The proposed rule does not impose any enforceable duties on these entities. Today's proposed rule, once finalized, will only address a single administrative aspect of the water quality standards approval process (i.e., the timing of the ''effectiveness'' of State or Tribal standards under the CWA). There will be no revisions to existing submission requirements and no revisions to EPA's standards for review. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

VIII. Consultation and Coordination With Indian Tribal Governments, Executive Order 13084

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 proposed rule does not significantly or uniquely affect the communities of Indian tribal governments, nor does it impose substantial direct compliance costs on them. Today's proposed rule, once finalized, will only address a single administrative aspect of the WQS

approval process (i.e., the timing of the ''effectiveness'' of Tribal WQS under the CWA). There will be no revisions to existing submission requirements and no revisions to EPA's standards for review. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

IX. Paperwork Reduction Act

This action requires no new information collection activities subject to the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). Therefore, no Information Collection Request will be submitted to the Office of Management and Budget for review in compliance with the Paperwork Reduction Act.

X. Protection of Children From Environmental Health Risks and Safety Risks, Executive Order 13045

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. EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This proposed rule is not subject to E.O. 13045 because it is not economically significant as defined under E.O. 12866 and, further, it does not establish an environmental standard intended to mitigate health or safety risks.

XI. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Pub. L. No. 104–113, section 12(d)((15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in it regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards. 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.

List of Subjects in 40 CFR Part 131

Environmental protection, Indians-lands, Intergovernmental relations, Water pollution control, Water quality standards.

Dated: June 30, 1999.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, 40 CFR part 131 is proposed to be amended as follows:

PART 131—WATER QUALITY STANDARDS

1. The authority citation for part 131 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

Subpart C—[Amended]

2. Section 131.21 is amended by revising paragraphs (c) and (d) and by adding paragraphs (e), (f), and (g) to read as follows:

§ 131.21 EPA review and approval of water quality standards.

* * * * *

(c) *How do I determine which water quality standards are applicable for purposes of the Act?*

You may determine which water quality standards are applicable water quality standards for purposes of the Act for the following table:

If	Then	Unless	In which case
(1) A State or authorized Tribe has adopted a water quality standard that is effective under State or Tribal law *before* [effective date of the final rule].	* * * The State or Tribe's water quality standard is the applicable water quality standard for purposes of the Act.	* * * EPA has promulgated a more stringent water quality standard for the State or Tribe, that is in effect.	* * * The EPA-promulgated water quality standard is the applicable water quality standard for purposes of the Act.
(2) A State or authorized Tribe adopts a water quality standard that goes into effect under State or Tribal law on or *after* [effective date of the final rule].	* * * Once EPA approves that water quality standard, it becomes the applicable water quality standard for purposes of the Act.	* * * EPA has promulgated a more stringent water quality standard for the State or Tribe, that is in effect.	* * * The EPA promulgated water quality standard is the applicable water quality standard for purposes of the Act.

(d) *When do I use the applicable water quality standards identified in paragraph (c) of this section?*

Applicable water quality standards for purposes of the Clean Water Act (CWA) are the minimum standards which must be used when the CWA and regulations implementing the CWA refer to water quality standards, for example, in identifying impaired waters and calculating TMDLs under section 303(d), developing NPDES permit limitations under section 301(b)(1)(C), evaluating proposed discharges or dredged or fill material under section 404, and in issuing certifications under section 401 of the Act.

(e) *For how long does the applicable water quality standard for purposes of the Act remain the applicable water quality standards for purposes of the Act?*

A State or Tribe's applicable water quality standards for purposes of the Act remains in effect until EPA approves a change, deletion, or addition to that water quality standard, or until EPA promulgates a more stringent water quality standard.

(f) *Can standards other than those identified in paragraph (c) of this section be used for purposes of the Act?*

State or Tribal water quality standards which are not less stringent than the applicable water quality standards may be adopted and enforced within the boundaries of the adopting State or authorized Tribe.

(g) *How can I find out what the applicable standards are for purposes of the Act?*

EPA will maintain a docket system, available to the public, identifying the applicable water quality standards for purposes of the Act.

[FR Doc. 99–17343 Filed 7–8–99; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office Of The Secretary

45 CFR Part 5b

Privacy Act; Implementation

AGENCY: Office of the Secretary, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Health and Human Services proposes to exempt a new system of records, 09–25–0213, ''Administration: Investigative Records, HHS/NIH/OM/OA/OMA,'' from certain requirements of the Privacy Act to protect records compiled in the course of an inquiry and/or investigation and to protect the identity of confidential sources who furnish information to the Government under an express promise that the identity of such source would be held in confidence.

DATES: Comments on the proposed amendment must be received on or before August 9, 1999.

ADDRESS: Written comments should be sent to: NIH Privacy Act Officer, 6011 Executive Boulevard, Room 601, Rockville, MD 20852.

Comments will be available for public inspection at this address on Monday through Friday of each week from 9 am to 3 pm.

FOR FURTHER INFORMATION CONTACT: NIH Privacy Act Officer, 6011 Executive Boulevard, Room 601, Rockville, MD 20852, 301–496–2832. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: The Office of Management Assessment (OMA) assumes the lead responsibility on cases received through the DHHS Office of Inspector General (OIG) hotline that are referred to NIH for action. OMA serves as NIH's central liaison on matters involving the Office of Audit Services, OIG; General Accounting Office; Federal Bureau of Investigation; congressional staff members; etc., related to management controls and audits. OMA also has overall responsibility for all matters related to management controls to prevent fraud, waste, abuse, and conflict of interest or the appearance of these, including the development and implementation of policy and the Annual Management Control Plan and the development of a planned management oversight activity that focuses on early identification and prevention of such occurrences.

To perform these responsibilities, OMA compiles and maintains administrative and investigative records related to alleged or suspected violations of statutes, regulations, and policies governing the conduct of Federal employees, recipients of Federal funding, and others who transact, or seek to transact business with the NIH.

These records contain information related to complaints of incidents, inquiries and investigative findings, administrative and other matters involving complainants, suspects and witnesses, and court dispositions.

The administrative and investigation records are located in the OMA and constitute a ''system of records'' as defined by the Privacy Act. Concurrent with this notice of proposed rulemaking, the National Institutes of Health is publishing a notice for this new system in the **Federal Register**.

Under the Privacy Act, individuals have a right of access to information pertaining to them which is contained in a system of records. At the same time, the Act permits certain types of systems to be exempt from some of the Privacy Act requirements. Subsection (k)(2) allows agency heads to exempt a system of records containing investigatory material compiled for enforcement purposes. This exemption is qualified in that if the material results in denial of any right, privilege, or benefit to an individual to which that individual would be entitled by Federal law, the individual must be granted access to the material, unless the access would reveal the identity of a source who furnished information to the Government under an express promise of confidentiality. In addition, paragraph (k)(5) permits an agency to exempt material from the individual access, notification, and correction and amendment provisions of the Act where investigatory material is compiled for the purpose of determining suitability, eligibility, or qualification for federal employment or financial assistance if release of the material would cause the identity of a confidential source to be revealed.

Because the administrative and investigative records are compiled by a distinct component of the agency whose principal function is investigations which compile material for law enforcement purposes, the specific exemption (k)(2) requirements are met and the exemption is justified. Investigations compiled for the purpose of determining suitability, eligibility, or qualification for federal employment or financial assistance may be undertaken when the investigations result from a direct allegation or through suspected violations of statutes, regulations and policies uncovered during an administrative management control review or audit. Determinations that applicants are not suitable, eligible or qualified would justify the need to invoke the paragraph (k)(5) exemption.

The system contains sensitive investigative records. The release of these records to the subject of the investigation could have a chilling effect on the willingness of informants to provide information freely, not only because of fear of retribution, but because they might hesitate to provide any information other than that of which they are entirely certain. Disclosure could impede ongoing investigations and violate the privacy rights of individuals other than the subject of the investigation, thereby diminishing the ability of the OMA to conduct a thorough and accurate investigation. Disclosure of information from these records might also reveal to the subjects of the investigation that their actions are being scrutinized, allowing them the opportunity to prevent detection of illegal activities. Finally, disclosure of information from the records might reveal investigative techniques and thereby jeopardize the integrity of the investigation.

Sources may be reluctant to provide sensitive information unless they can be assured that their identities will not be revealed. These exemptions are proposed to ensure that: (1) Efforts to obtain accurate and objective information will not be hindered; (2) investigative records will not be disclosed inappropriately; and (3) identities of confidential sources and OMA investigators will be protected. Accordingly, the Department proposes to exempt this system under paragraphs (k)(2) and (k)(5) of the Privacy Act from the notification, access, correction, and amendment provisions of the Privacy Act (paragraphs (c)(3), (d)(1)–(4), (e)(1), (e)(4)–(G) and (H) and (f)).

Regulatory Impact Statement

Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, requires the Department to prepare an analysis for any rule that meets one of the E. O. 12866 criteria for a significant regulatory action; that is, that may—

Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment,

public health or safety, or State, local, or tribal governments or communities;

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

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

Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866.

In addition, the Department prepares a regulatory flexibility analysis, in accordance with the Regulatory Flexibility Act (5 U.S.C. chapter 6), if the rule is expected to have a significant impact on a substantial number of small entities.

Because the amendment affects only NIH OMA investigatory records, a small subset of Agency records, we do not believe this proposed rule is economically significant nor do we believe that it will have a significant impact on a substantial number of small entities. The proposed rule is not expected to have any significant impact on OMA operations and does not impose any new information collection requirements under the Paperwork Reduction Act. In addition, this proposed rule is not inconsistent with the actions of any other agency.

For these same reasons, the Secretary certifies this proposed rule will not have a significant economic impact on a substantial number of small entities, and that a Regulatory Flexibility Analysis, as defined under the Regulatory Flexibility Act, is not required.

List of Subjects in 45 CFR Part 5b

Privacy.

Dated: October 13, 1998.

Harold Varmus,

Director, National Institutes of Health.

Approved: March 11, 1999.

Donna E. Shalala,

Secretary.

For the reasons set out in the preamble, 45 CFR part 5b is proposed to be amended as set forth below:

PART 5b—PRIVACY ACT REGULATIONS

1. The authority citation for part 5b would continue to read:

Authority: 5 U.S.C. 301, 5 U.S.C. 552a.

2. Section 5b.11(b)(2)(vii) would be amended by designating the paragraph after the colon as paragraph (b)(2)(vii(A)and republishing it and by adding paragraph (b)(2)(vii)(B) to read as follows:

§ 5b.11 Exempt systems.

* * * * *

(b) * * *

(2) * * *

(vii) Pursuant to subsections (k)(2) and (k)(5) of the Act:

(A) Public Health Service Records Related to Investigations of Scientific Misconduct, HHS/OASH/ORI.

(B) Administration: Investigative Records, HHS/NIH/OM/OA/OMA.

* * * * *

[FR Doc. 99–17411 Filed 7–8–99; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622 and 640

[Docket No. 990621165–9165–01; I.D. 022599A]

RIN: 0648–AL43

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Essential Fish Habitat (EFH) for Species in the South Atlantic; Amendment 4 to the Fishery Management Plan for Coral, Coral Reefs, and Live/Hard Bottom Habitats of the South Atlantic Region (Coral FMP)

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

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS proposes to increase the size of the Oculina Bank Habitat Area of Particular Concern (HAPC) and to incorporate two adjacent areas within the Oculina Bank HAPC. NMFS also proposes regulatory changes to reflect the South Atlantic Fishery Management Council's proposed framework procedure for all its fishery management plans (FMPs) that would allow for timely modification of definitions of EFH and establishment or modification of EFH-HAPCs and Coral HAPCs. The intended effect is to protect, conserve, and enhance EFH.

DATES: Written comments on this proposed rule must be received on or before August 23, 1999.

ADDRESSES: Copies of the Habitat Plan for the South Atlantic Region (Habitat Plan) and the EFH Amendment, which includes Amendment 4 to the Coral FMP, a final supplemental environmental impact statement (FSEIS), a regulatory impact review (RIR), and a social impact assessment/fishery impact assessment may be obtained from the South Atlantic Fishery Management Council (Council), One Southpark Circle, Suite 306, Charleston, SC 29407–4699; telephone: 843–571–4366; fax: 843–769–4520. Copies of the initial regulatory flexibility analysis (IRFA) prepared by NMFS may be obtained from the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Written comments on the proposed rule or the IRFA may be submitted to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Michael Barnette, 727–570–5305.

SUPPLEMENTARY INFORMATION: The fisheries for shrimp, red drum, snapper-grouper, coastal migratory pelagics, golden crab, spiny lobster, and coral, coral reefs, and live/hard bottom habitat of the South Atlantic are managed under the Council's FMPs, as approved and implemented by NMFS. These FMPs were prepared solely by the Council, except for the FMPs for coastal migratory pelagics and spiny lobster that were prepared jointly by the Council and the Gulf of Mexico Fishery Management Council. These FMPs are implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622, except for the FMP for spiny lobster that is implemented by regulations at 50 CFR part 640.

The Magnuson-Stevens Act, as amended by the Sustainable Fisheries Act, requires the Council to describe and identify EFH in all its FMPs, including identification of adverse impacts from both fishing and non-fishing activities on EFH and identification of actions required to conserve and enhance EFH. This requirement is intended to provide a basis for the Council and NMFS to protect, conserve, and enhance EFH under management measures that are proposed, approved, and implemented through amendments to FMPs or other means provided by the Magnuson-Stevens Act, if appropriate, and for the Council and NMFS to fulfill their consulting and commenting responsiblities regarding Federal and state actions that may adversely affect EFH.

50 CFR 600.10 defines EFH as follows:

Essential fish habitat (EFH) means those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. For the purpose of interpreting the

definition of essential fish habitat: Waters include aquatic areas and their associated physical, chemical, and biological properties that are used by fish and may include aquatic areas historically used by fish where appropriate; substrate includes sediment, hard bottom, structures underlying the waters, and associated biological communities; necessary means the habitat required to support a sustainable fishery and the managed species' contribution to a healthy ecosystem; and ''spawning, breeding, feeding, or growth to maturity'' covers a species' full life cycle.

The Council may identify EFH that is judged to be particularly important to the long-term productivity of populations of one or more managed species, or to be particularly vulnerable to degradation, as an HAPC. Such designation helps provide additional focus for conservation efforts. EFH-HAPCs may be identified based on the following criteria: (1) The importance of the ecological function provided by the habitat; (2) the extent to which the habitat is sensitive to human-induced environmental degradation; (3) whether, and to what extent, development activities are, or will be, stressing the habitat type; and (4) the rarity of the habitat type (50 CFR § 600.815(a)(9)).

The Council prepared and submitted a Habitat Plan, which serves as a source document for habitat data, and a Comprehensive Amendment addressing EFH in FMPs of the South Atlantic Region (EFH Amendment). The EFH Amendment proposes EFH definitions and EFH-HAPCs for the management unit species in all of the Council's FMPs.

The EFH Amendment also would establish a framework procedure, applicable to all of the Council FMPs, to allow for timely modification of EFH definitions and establishment or modification of existing EFH-HAPCs or Coral HAPCs. This framework procedure would allow the Council to recommend to NMFS additions or modifications regarding EFH definitions and EFH-HAPCs and Coral-HAPCs without requiring an amendment to the appropriate FMP(s). This procedure would provide for a streamlined Council process for obtaining public comment on the Council's proposals and their expected biological, social, and economic impacts. After receiving the Council's recommendations for additions or modifications regarding EFH definitions, EFH-HAPCs, and Coral-HAPCs, the NMFS Regional Administrator would decide whether to approve or disapprove the Council's recommendations as well as whether to implement any approved measures directly by a final rule or through a proposed and final rule. Finally, the framework procedure would allow these adjustments any time during the year. Although the FMP's framework procedures refer to rulemaking, NMFS does not intend to modify EFH definitions, EFH-HAPCs, or Coral-HAPCs in codified text. However, NMFS would publish notice of the proposed changes in the **Federal Register** and solicit public comment in accordance with the FMP framework procedure. Details of the proposed framework procedure are contained in section 4.2.8 of the EFH Amendment. This rule proposes changes to 50 CFR § 622.48 and 50 CFR § 640.25 to reflect the Council's proposed framework procedure.

The EFH Amendment contains Amendment 4 to the Coral FMP that would expand the boundaries of the current Oculina Bank HAPC to encompass: (1) An area bounded on the north by 28°30' N. lat., on the south by 27°30' N. lat., on the east by the 100–fathom (183–m) contour, as shown on the latest edition of NOAA chart 11460, and on the west by 80°00' W. long.; and (2) two adjacent areas, the first bounded on the north by 28°30' N. lat., on the south by 28°29' N. lat., on the east by 80°00' W. long., and on the west by 80°03' W. long., and the second bounded on the north by 28°17' N. lat., on the south by 28°16' N. lat., on the east by 80°00' W. long., and on the west by 80°03' W. long.

The current boundaries of the Oculina Bank HAPC were established by the final rule to implement the Fishery Management Plan for Coral and Coral Reefs of the Gulf of Mexico and South Atlantic (49 FR 29607, July 23, 1984). In the Oculina Bank HAPC, fishing with a bottom longline, bottom trawl, dredge, pot, or trap is prohibited, and a fishing vessel may not anchor, use an anchor and chain, or use a grapple and chain.

Subsequently, fishing for South Atlantic snapper-grouper in the Oculina Bank HAPC was prohibited (59 FR 27242, May 26, 1994). The purpose of this prohibition was to evaluate the benefits of marine reserves. In effect, an experimental closed area was established for South Atlantic snapper-grouper with the same boundaries as the original Oculina Bank HAPC.

Amendment 4 to the Coral FMP would expand only the Oculina Bank HAPC—the experimental closed area would not be expanded and its restrictions on snapper-grouper fishing would not be changed or expanded. The proposed expanded Oculina Bank HAPC also includes the current area closed to rock shrimp trawling.

Expansion of the Oculina Bank HAPC is necessary to protect the *Oculina* coral concentrations contained in the area of expansion. *Oculina* coral, a slow growing, delicate stony coral, is easily damaged by anchoring and use of bottom tending gear (e.g., trawls, traps). *Oculina* coral provides important habitat for snapper-grouper species and for rock shrimp and calico scallop spawning stock.

Availability of the Habitat Plan and EFH Amendment

Specifications of EFH and HAPCs and additional background and rationale for the expansion of the Oculina Bank HAPC are contained in the Habitat Plan and the EFH Amendment, which includes Amendment 4 to the Coral FMP. Availability of the Habitat Plan and EFH Amendment was announced in the **Federal Register** (63 FR 10612, March 5, 1998). The preamble to the final rule will summarize and address all comments on the EFH Amendment, including Amendment 4, the Habitat Plan, and this proposed rule that are received during their respective comment periods.

Classification

The Administrator, Southeast region, NMFS, determined that the EFH Amendment is necessary for the conservation and management of the Council's FMPs and it is consistent with the Magnuson-Stevens Act and other applicable law on June 3, 1999.

The Council prepared a final SEIS (FSEIS) for the EFH Amendment, including Amendment 4 to the Coral FMP. The Environmental Protection Agency (EPA) published a notice of the availability of the draft SEIS on July 17, 1998 (63 FR 19120). EPA published a notice of availability of the FSEIS on April 19, 1999, (64 FR 17362). The environmental impacts described in the FSEIS are summarized as follows. Expanding the Oculina Bank HAPC to include the *Oculina* coral and the hard bottom/soft coral habitat within the area north of the current Oculina Bank HAPC boundary and in two adjacent areas would provide additional protection for essential fish habitat. The expansion would reduce the gear-related impact of the rock shrimp and calico scallop fisheries on live/hard bottom and coral habitat by eliminating the use of trawl gear in the expanded area. It would also eliminate damage from other fishing gear that contacts the bottom.

Trawl damage occurs from direct contact with live/hard bottom, including *Oculina* coral. *Oculina* is only known to be distributed in bank formation south of 29° N. lat. Therefore, prohibiting the use of trawl gear in the expanded area will help prevent the loss

of this essential snapper grouper habitat and will enhance its biological integrity.

There is concern that repetitive trawling of the limited fishable bottom over the years has and may continue to impact the benthic habitat and the fishery resources it sustains. Therefore, an additional benefit of protecting these habitats would be protection of a portion of the rock shrimp and calico scallop spawning stock. This would help the fishery recover in years when recruitment is low due to poor environmental conditions.

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

The EFH Amendment does not contain measures that would result in immediate economic effects, except for Actions 3A and 3B. These actions would enlarge the existing Oculina Bank HAPC, create two ''satellite HAPC'' areas, and prohibit fishing with a bottom longline, bottom trawl, dredge, pot, or trap in these areas. The Council determined that the prohibition on trawling for calico scallops would not have a significant impact on a substantial number of small entities. NMFS reviewed the Council's determination and made an independent determination that certain criteria for significance, in particular the NMFS criterion of a 5 percent negative impact on revenues, may be met. Accordingly, NMFS determined there would be a significant impact on a substantial number of small entities and prepared an IRFA. However, NMFS notes that the information on economic impacts associated with the proposed rule is incomplete and is specifically requesting public comment on the extent and nature of economic impacts that may be associated with a prohibition on calico scallop trawling in expanded Oculina HAPC. The IRFA prepared by NMFS was based on information in the EFH Amendment and on other available information. A summary of the IRFA follows.

The proposed action responds to the Magnuson-Stevens Act requirements to identify essential fish habitats and to minimize any fishing related damage to these habitats. The overall objective of the proposed rule is to identify and maintain essential fish habitats. The Magnuson-Stevens Act provides the legal basis for the rule. Most of the provisions of the proposed rule would result in regulations that would not have cost or revenue effects on small entities. However, a proposal to enlarge an existing protected area, called the Oculina Bank HAPC, would also prohibit trawling for calico scallops in the expanded HAPC. This portion of the proposed rule would apply to about 25 small fishing businesses that have historically participated in the fishery. Most of the vessels used by these small businesses were not built specifically for harvesting calico scallops but are shrimp trawling vessels using modified gear. In 1997, the industry had landings that generated gross revenues of $1.3 million dollars, and this indicates that gross revenue per vessel averaged about $52,000. Complete information regarding variability of revenues among vessels does not exist, but it is known with reasonable certainty that the actual landings of calico scallops and the associated revenues would show a considerable amount of variation among the 25 vessels in the industry, and differential impacts are expected. There are no additional reporting, recordkeeping, or other compliance costs associated with the proposed action, and no existing duplicative, overlapping, or conflicting Federal rules have been identified. Two alternatives were considered and rejected. One of the alternatives considered was no action. While this option obviously would have no impact on small business entities, it was rejected since it would provide no additional protection for essential fish habitats. The other alternative would expand the Oculina Bank HAPC by a greater area than required by the proposed alternative. This option would provide additional protection to essential fish habitats but would result in the closure of a major portion of the known historic fishing grounds for calico scallops and would result in major negative impacts on the calico scallop industry. The resulting negative economic impacts were deemed to be greater than the benefits that would accrue from the additional protection for essential fish habitats, and the alternative was rejected on that basis.

Copies of the IRFA are available (see **ADDRESSES**).

List of Subjects

50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

50 CFR Part 640

Fisheries, Fishing, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: July 1, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 622 and 640 are proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 622.35, paragraph (g) is removed and paragraph (c) is revised to read as follows:

§ 622.35 South Atlantic EEZ seasonal and/or area closures.

* * * * *

(c) *Oculina Bank*—(1) *HAPC.* The Oculina Bank HAPC encompasses an area bounded on the north by 28°30' N. lat., on the south by 27°30' N. lat., on the east by the 100–fathom (183–m) contour, as shown on the latest edition of NOAA chart 11460, and on the west by 80°00' W. long.; and two adjacent areas: the first bounded on the north by 28°30' N. lat., on the south by 28°29' N. lat., on the east by 80°00' W. long., and on the west by 80°03' W. long.; and the second bounded on the north by 28°17' N. lat., on the south by 28°16' N. lat., on the east by 80°00 W. long., and on the west by 80°03' W. long.

In the Oculina Bank HAPC, no person may:

(i) Use a bottom longline, bottom trawl, dredge, pot, or trap.

(ii) If aboard a fishing vessel, anchor, use an anchor and chain, or use a grapple and chain.

(iii) Fish for rock shrimp or possess rock shrimp in or from the area on board a fishing vessel.

(2) *Experimental closed area.* Within the Oculina Bank HAPC, the experimental closed area is bounded on the north by 27°53' N. lat., on the south by 27°30' N. lat., on the east by 79°56' W. long., and on the west by 80°00' W. long. No person may fish for South Atlantic snapper-grouper in the experimental closed area, and no person may retain South Atlantic snapper-grouper in or from the area. In the experimental closed area, any South Atlantic snapper-grouper taken incidentally by hook-and-line gear must be released immediately by cutting the line without removing the fish from the water.

* * * * *

3. In § 622.48, the introductory text and paragraphs (c), (f), (g), and (h) are

revised; and paragraphs (j) and (k) are added to read as follows:

§ 622.48 Adjustment of management measures.

In accordance with the framework procedures of the applicable FMPs, the RD may establish or modify the following items:

* * * * *

(c) *Coastal migratory pelagic fish*. For cobia or for a migratory group of king or Spanish mackerel: MSY, overfishing level, TAC, quota (including a quota of zero), bag limit (including a bag limit of zero), minimum size limit, vessel trip limits, closed seasons or areas, gear restrictions (ranging from regulation to complete prohibition), reallocation of the commercial/recreational allocation of Atlantic group Spanish mackerel, permit requirements, definitions of essential fish habitat, and establishment or modification of essential fish habitat HAPCs or Coral HAPCs.

* * * * *

(f) *South Atlantic snapper-grouper and wreckfish*. For species or species groups: Target dates for rebuilding overfished species, MSY, ABC, TAC, quotas, trip limits, bag limits, minimum sizes, gear restrictions (ranging from regulation to complete prohibition), seasonal or area closures, definitions of essential fish habitat, and establishment or modification of essential fish habitat HAPCs or Coral HAPCs.

(g) *South Atlantic golden crab*. MSY, ABC, TAC, quotas (including quotas equal to zero), trip limits, minimum sizes, gear regulations and restrictions, permit requirements, seasonal or area closures, time frame for recovery of golden crab if overfished, fishing year (adjustment not to exceed 2 months), observer requirements, authority for the RD to close the fishery when a quota is reached or is projected to be reached, definitions of essential fish habitat, and establishment or modification of essential fish habitat HAPCs or Coral HAPCs.

(h) *South Atlantic shrimp*. Certified BRDs and BRD specifications, definitions of essential fish habitat, and establishment or modification of essential fish habitat HAPCs or Coral HAPCs.

* * * * *

(j) *Atlantic coast red drum*. Definitions of essential fish habitat and establishment or modification of essential fish habitat HAPCs or Coral HAPCs.

(k) *South Atlantic coral, coral reefs, and live/hard bottom habitats*. Definitions of essential fish habitat and establishment or modification of essential fish habitat HAPCs or Coral HAPCs.

PART 640—SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC

3. The authority citation for part 640 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq*.

4. A new § 640.25 is added to subpart B to read as follows:

§ 640.25 Adjustment of management measures.

In accordance with the framework procedure of the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic, the RD may establish or modify the following items: definitions of essential fish habitat, Essential Fish Habitat-Habitat Areas of Particular Concern, Coral-Habitat Areas of Particular Concern, limits on the number of traps fished by each vessel, construction characteristics of traps, specification of gear and vessel identification requirements, specification of allowable or prohibited gear in a directed fishery, specification of bycatch levels in non-directed fisheries, changes to soak or removal periods and requirements for traps, recreational bag and possession limits, changes in fishing seasons, limitations on use, possession, and handling of undersized lobsters, and changes in minimum size.

[FR Doc. 99–17489 Filed 7–8–99; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 64, No. 131
Friday, July 9, 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

Animal and Plant Health Inspection Service

[Docket No. 99–041–1]

Notice of Request for Extension of Approval of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection in support of the importation of animals and poultry, animal and poultry products, and animal germplasm.

DATES: Comments on this notice must be received by September 7, 1999, to be assured of consideration.

ADDRESSES: We invite you to comment regarding the accuracy of burden estimate, ways to minimize the burden (such as through the use of automated collection techniques or other forms of information technology), or any other aspect of this collection of information. Please send your comment and three copies to: Docket No. 99–041–1, 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. 99–041–1.

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: For information regarding the regulations for the importation of animals and poultry, animal products and poultry products, and animal germplasm, contact Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export (NCIE), VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–8364; or e-mail: gary.s.colgrove@usda.gov. For copies of more detailed information on the information collection, contact Ms. Cheryl Groves, APHIS' Information Collection Coordinator, at (301) 734–5086.

SUPPLEMENTARY INFORMATION:

Title: Importation of Animals and Poultry, Animal and Poultry Products, and Certain Animal Embryos.

OMB Number: 0579–0040.

Expiration Date of Approval: September 30, 1999.

Type of Request: Extension of approval of an information collection.

Abstract: The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture is responsible for preventing the introduction of exotic animal diseases into the United States and for rapidly identifying, containing, and eradicating these diseases when outbreaks occur. To fulfill this mission, we must collect pertinent information from those individuals who import animals or poultry, animal or poultry products, or animal germplasm into the United States.

This information includes important data such as the origins of the animals or animal products to be imported, the health status of the animals or the processing methods used to produce the animal products to be imported, and whether the animals or animal products were temporarily offloaded in another country during their transit to the United States. This information helps us to ensure that these imports pose no more than a negligible risk of introducing exotic animal diseases into the United States.

Acquiring this information entails the use of a variety of information collection procedures, devices, and forms including, but not limited to: Health certificates, import permits, ear tags, leg bands, specimen submission forms, inspection reports, cooperative and trust fund agreements, and certification statements.

We are asking the Office of Management and Budget (OMB) to approve the continued use of this information collection activity.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning this information collection activity. These comments will:

(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 our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.25304 hours per response.

Respondents: Entities that import animals or poultry, animal or poultry products, or animal germplasm into the United States.

Estimated annual number of respondents: 107,849.

Estimated annual number of responses per respondent: 23.5245.

Estimated annual number of responses: 2,537,098.

Estimated total annual burden on respondents: 64,200 hours. (Due to rounding, the total annual burden hours may not equal the product of the annual number of responses multiplied by the average reporting burden per response.)

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.

Done in Washington, DC, this 2nd day of July 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–17446 Filed 7–8–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Child and Adult Care Food Program: National Average Payment Rates, Day Care Home Food Service Payment Rates, and Administrative Reimbursement Rates for Sponsoring Organizations of Day Care Homes for the Period July 1, 1999–June 30, 2000

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the annual adjustments to: The national average payment rates for meals and supplements served in child care centers, outside-school-hours care centers, at-risk afterschool care centers, and adult day care centers; the food service payment rates for meals and supplements served in day care homes; and the administrative reimbursement rates for sponsoring organizations of day care homes, to reflect changes in the Consumer Price Index. Further adjustments are made to these rates to reflect the higher costs of providing meals in the States of Alaska and Hawaii. The adjustments contained in this notice are made on an annual basis each July, as required by the statutes and regulations governing the Child and Adult Care Food Program (CACFP).

EFFECTIVE DATE: July 1, 1999.

FOR FURTHER INFORMATION CONTACT: Melissa Rothstein, Section Chief, Child and Adult Care and Summer Programs Section, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, USDA, Alexandria Virginia, 22302, (703) 305–2620.

SUPPLEMENTARY INFORMATION:

Definitions

The terms used in this notice shall have the meanings ascribed to them in the regulations governing the CACFP (7 CFR Part 226).

Background

Pursuant to sections 4, 11 and 17 of the National School Lunch Act (NSLA) (42 U.S.C. § § 1753, 1759a and 1766), section 4 of the Child Nutrition Act of 1966 (CNA) (42 U.S.C. 1773) and §§ 226.4, 226.12 and 226.13 of the regulations governing the CACFP (7 CFR part 226), notice is hereby given of the new payment rates for institutions participating in CACFP. These rates shall be in effect during the period July 1, 1999 through June 30, 2000.

As provided for under the NSLA and the CNA, all rates in the CACFP must be revised annually on July 1 to reflect changes in the Consumer Price Index (CPI) for the most recent 12-month period. In accordance with this mandate, the Department last published the adjusted national average payment rates for centers, the food service payment rates for day care homes, and the administrative reimbursement rates for sponsors of day care homes on July 2, 1998 at 63 FR 36205 (for the period July 1, 1998–June 30, 1999). A subsequent notice was published on July 13, 1998 at 63 FR 37628 to correct printing errors in the original notice.

Section 103(b) of the William F. Goodling Child Nutrition Reauthorization Act of 1998, Pub. L. 105–336, enacted October 31, 1998, amended section 11(a)(3)(B) of the NSLA (42 U.S.C. § 1759a(a)(3)(B)) and changed the method of computing the annual adjustments to the reimbursement rates for free and reduced-price meals and supplements served in centers participating in CACFP. Effective July 1, 1999, the amendment requires that operating reimbursement rates for meals and supplements served in centers be rounded down to the nearest lower whole cent. This complements the amendment made by section 704(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, enacted August 22, 1996, which changed the method of computing the paid meal reimbursements in centers, and the reimbursements for all meals served in CACFP family day care homes. With the amendment described within section 103(b), all reimbursement rates for meals served in CACFP will be adjusted and then rounded down to the nearest lower whole cent.

Section 708(e)(1) of Pub. L. 104–193 also amended section 17(f)(3)(A) of the NSLA to establish two ''tiers'' of day care homes and reimbursement rates. Tier I homes are homes located in low-income areas or homes in which the provider's household income is at or below 185 percent of the Federal income poverty guidelines. Tier II homes are those homes which do not meet the location or provider income criteria for a tier I home. However, tier II homes may receive the tier I rates for meals served to identified income-eligible children (i.e. children from households with incomes at or below 185 percent of the Federal income poverty guidelines).

Pub. L. 104–193 further specified in section 17(f)(3)(A)(ii)(III) and (IV) the reimbursement factors for meals served in tier I day care homes as the factors in effect on July 1, 1996, with adjustments made to the factors on July 1, 1997, and each July 1 thereafter. Pub. L. 104–193 further provided in section 17(f)(3)(A)(ii)(IV) and 17(f)(3)(A)(iii)(I)(bb) (42 U.S.C. 1766(f)(3)(A)(ii)(IV) and 1766(f)(3)(A)(iii)(I)(bb)) of the NSLA that the factors paid to tier I and tier II homes be rounded down to the nearest whole cent, instead of rounding the factors up or down to the nearest quarter-cent increment as previously required. Subsequent adjustments must be based on the unrounded rate from the preceding school year. In addition, annual adjustments, which were previously based on changes in the CPI for food away from home, must now be made based on the CPI for food at home.

Please note that reimbursement rates for tier II family day care homes are set forth in section 17(f)(3)(A)(iii)(I)(aa) of the NSLA (42 U.S.C. 1766(f)(3)(A)(iii)(I)(aa)), as amended by section 708(e)(1) of Pub. L. 104–193. After these reimbursement rates were adjusted and rounded down to the nearest whole cent as required under the law, an additional six cents was added to the breakfast rate as required by section 4(b)(3) of the CNA of 1966, as amended (42 U.S.C. 1773(b)(3)). The CNA requires that all reimbursement rates for breakfasts served under the School Breakfast Program and the CACFP be adjusted upward by six cents. As background, this addition was first made in 1986, under Pub. L. 99–500, the School Lunch and Child Nutrition Amendments of 1986, which added three cents to adjusted breakfast rates to assist States in improving the nutritional quality of the breakfasts. This adjustment was raised from three cents to six cents in 1989 under Pub. L. 101–147, the Child Nutrition and WIC Reauthorization Act of 1989, for the same reason.

The payment rates for the period July 1, 1999–June 30, 2000 are:

MEALS SERVED IN CENTERS—ALL STATES EXCEPT ALASKA AND HAWAII

[Per meal rates in whole or fractions of U.S. dollars]

Type of meal served	Paid	Reduced price	Free
Breakfast	0.21	0.79	1.09
Lunch and Supper [1]	0.19	1.58	1.98
Supplement	0.05	0.27	0.54

[1] These rates do not include the value of commodities (or cash-in-lieu of commodities) which institutions receive as additional assistance for each lunch or supper served to participants under the program. A notice announcing the value of commodities and cash-in-lieu of commodities is published separately in the **Federal Register**.

MEALS SERVED IN DAY CARE HOMES—ALL STATES EXCEPT ALASKA AND HAWAII

[Per meal rates in whole or fractions of U.S. dollars]

Type of meal served	Tier I	Tier II
Breakfast	0.92	0.34
Lunch and Supper	1.69	1.02
Supplement	0.50	0.13

ADMINISTRATIVE REIMBURSEMENT RATES—ALL STATES EXCEPT ALASKA AND HAWAII

[For sponsoring organizations of day care homes]

Number of homes	Rate per home
Initial 50	78
Next 150	59
Next 800	46
Each Additional	41

Pursuant to section 12(f) of the NSLA (42 U.S.C 1760(f)), the Department adjusts the payment rates for participating institutions in the States of Alaska and Hawaii. The new payment rates for Alaska are as follows:

MEALS SERVED IN CENTERS—ALASKA

[Per meal rates in whole or fractions of U.S. dollars]

Type of meal served	Paid	Reduced price	Free
Breakfast	0.30	1.44	1.74
Lunch and Supper [1]	0.30	2.81	3.21
Supplement	0.08	0.44	0.88

[1] These rates do not include the value of commodities (or cash-in-lieu of commodities) which institutions receive as additional assistance for each lunch or supper served to participants under the program. A notice announcing the value of commodities and cash-in-lieu of commodities is published separately in the **Federal Register**.

MEALS SERVED IN DAY CARE HOMES—ALASKA

[Per meal rates in whole or fractions of U.S. dollars]

Type of meal served	Tier I	Tier II
Breakfast	1.45	0.52
Lunch and Supper	2.73	1.65
Supplement	0.81	0.22

ADMINISTRATIVE REIMBURSEMENT RATES—ALASKA

[For sponsoring organizations of day care homes per home/per month rates in U.S. dollars]

Number of homes	Rate per home
Initial 50	126
Next 150	96
Next 800	75
Each Additional	66

The new payment rates for Hawaii are as follows:

MEALS SERVED IN CENTERS—HAWAII

[Per meal rates in whole or fractions of U.S. dollars]

Type of meal served	Paid	Reduced price	Free
Breakfast	0.23	0.97	1.27
Lunch and supper [1]	0.22	1.92	2.32
Supplement	0.05	0.31	0.63

[1] These rates do not include the value of commodities (or cash-in-lieu of commodities) which institutions receive as additional assistance for each lunch or supper served to participants under the program. A notice announcing the value of commodities and cash-in-lieu of commodities is published separately in the **Federal Register**.

MEALS SERVED IN DAY CARE HOMES—HAWAII

[Per meal rates in whole or fractions of U.S. dollars]

Type of meal served	Tier I	Tier II
Breakfast	1.06	0.39
Lunch and Supper	1.97	1.19
Supplement	0.58	0.16

ADMINISTRATIVE REIMBURSEMENT RATES—HAWAII

[For sponsoring organizations of day care homes per home/per month rates in U.S. dollars]

Number of homes	Rate per home
Initial 50	91
Next 150	69
Next 800	54
Each Additional	48

The changes in the national average payment rates for centers reflect a 2.49 percent increase during the 12-month period, May 1998 to May 1999, (from 160.6 in May 1998 to 164.6 in May 1999) in the food away from home series of the CPI for All Urban Consumers.

The changes in the food service payment rates for day care homes reflect a 1.99 percent increase during the 12-month period, May 1998 to May 1999, (from 160.7 in May 1998 to 163.9 in May 1999) in the food at home series of the CPI for All Urban Consumers.

The changes in the administrative reimbursement rates for sponsoring organizations of day care homes reflect a 2.09 percent increase during the 12-month period, May 1998 to May 1999,

(from 162.8 in May 1998 to 166.2 in May 1999) in the series for all items of the CPI for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

The total amount of payments available to each State agency for distribution to institutions participating in the program is based on the rates contained in this notice.

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

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.558 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983.)

This notice imposes no new reporting or recordkeeping provisions that are subject to Office of Management and Budget review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3518).

Authority: Secs. 4(b)(2), 11a, 17(c) and 17(f)(3)(B) of the National School Lunch Act, as amended (42 U.S.C. 1753(b)(2), 1759a, 1766(f)(3)(B)) and section 4(b)(1)(B) of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1773(b)(1)(B)).

Dated: July 2, 1999.

Samuel Chambers, Jr.,

Administrator.

[FR Doc. 99–17407 Filed 7–8–99; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

National School Lunch, Special Milk, and School Breakfast Programs; National Average Payments/Maximum Reimbursement Rates

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces the annual adjustments to: The ''national average payments,'' the amount of money the Federal Government provides States for lunches, afterschool snacks and breakfasts served to children participating in the National School Lunch and School Breakfast Programs; the ''maximum reimbursement rates,'' the maximum per lunch rate from Federal funds that a State can provide a school food authority for lunches served to children participating in the National School Lunch Program; and the rate of reimbursement for a half-pint of milk served to nonneedy children in a school or institution which participates in the Special Milk Program for Children. The payments and rates are prescribed on an annual basis each July. The annual payments and rates adjustments for the National School Lunch and School Breakfast Programs reflect changes in the Food Away From Home series of the Consumer Price Index for All Urban Consumers. The annual rate adjustment for the Special Milk Program reflects changes in the Producer Price Index for Fluid Milk Products. These payments and rates are in effect from July 1, 1999 through June 30, 2000.

EFFECTIVE DATE: July 1, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Jane Whitney, Section Chief, School Programs Section, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 1007, Alexandria, VA 22302 or phone (703) 305–2620.

SUPPLEMENTARY INFORMATION:

Background

Special Milk Program for Children—Pursuant to section 3 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1772), the Department announces the rate of reimbursement for a half-pint of milk served to nonneedy children in a school or institution which participates in the Special Milk Program for Children. This rate is adjusted annually to reflect changes in the Producer Price Index for Fluid Milk Products (Code 0231), published by the Bureau of Labor Statistics of the Department of Labor.

For the period July 1, 1999 to June 30, 2000, the rate of reimbursement for a half-pint of milk served to a nonneedy child in a school or institution which participates in the Special Milk Program is 12.75 cents. This reflects a decrease of 1.41 percent in the Producer Price Index for Fluid Milk Products (Code 0231) from May 1998 to May 1999 (from a level of 141.7 in May 1998 to 139.7 in May 1999).

As a reminder, schools or institutions with pricing programs which elect to serve milk free to eligible children continue to receive the average cost of a half-pint of milk (the total cost of all milk purchased during the claim period divided by the total number of purchased half-pints) for each half-pint served to an eligible child.

National School Lunch and School Breakfast Programs—Pursuant to sections 11 and 17A of the National School Lunch Act, (42 U.S.C. 1759a and 1766a), and section 4 of the Child Nutrition Act of 1966, (42 U.S.C. 1773), the Department annually announces the adjustments to the National Average Payment Factors and to the maximum Federal reimbursement rates for lunches and afterschool snacks served to children participating in the National School Lunch Program and breakfasts served to children participating in the School Breakfast Program. Adjustments are prescribed each July 1, based on changes in the Food Away From Home series of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor. The changes in the national average payment rates for schools and residential child care institutions for the period July 1, 1999 through June 30, 2000 reflect a 2.49 percent increase in the Price Index during the 12-month period May 1998 to May 1999 (from a level of 160.6 in May 1998 to 164.6 in May 1999).

Section 103(b) of the William F. Goodling Child Nutrition Reauthorization Act of 1998, Pub. L. 105–336, enacted October 31, 1998 amended section 11(a)(3)(B) of the National School Lunch Act (42 U.S.C. 1759a(a)(3)(B)) and changed the method of computing the annual adjustments to the national average payment rates for meals and afterschool snacks served to *needy* children. Effective July 1, 1999, the annual adjustments to the payment rates for free and reduced price meals under section 11(a)(2) of the National School Lunch Act (42 U.S.C. 1759a(a)(2)), section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) and section 17A(c) of the National School Lunch Act (42 U.S.C. 1766a(c)), authorized under section 11(a)(3)(B) of the National School Lunch Act are rounded down to the nearest whole cent. This complements section 704(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, enacted August 22, 1996, which amended section 11(a)(3)(B) of the National School Lunch Act (42 U.S.C. 1759a(a)(3)(B)) to change the method for computing the annual adjustments to the national average payment rates for meals and afterschool snacks served to *nonneedy* children. Effective July 1, 1997, the annual adjustments to the payment rates for *paid* meals under Section 4 of the National School Lunch Act (42 U.S.C. 1753), and Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773)

and *paid* afterschool snacks under section 17A(c) of the National School Lunch Act (42 U.S.C. 1766a(c)), authorized under section 11(a)(3)(B) of the National School Lunch Act, were rounded down to the nearest whole cent. Thus, these two statutory amendments implement a provision wherein annual adjustments to the national average payment rates for all lunches served under the National School Lunch Program, breakfasts served under the School Breakfast Program, and afterschool snacks served under the National School Lunch Program are rounded down to the nearest whole cent.

Lunch Payment Levels—Section 4 of the National School Lunch Act (42 U.S.C. 1753) provides general cash for food assistance payments to States to assist schools in purchasing food. The National School Lunch Act provides two different Section 4 payment levels for lunches served under the National School Lunch Program. The lower payment level applies to lunches served by school food authorities in which less than 60 percent of the lunches served in the school lunch program during the second preceding school year were served free or at a reduced price. The higher payment level applies to lunches served by school food authorities in which 60 percent or more of the lunches served during the second preceding school year were served free or at a reduced price.

To supplement these Section 4 payments, section 11 of the National School Lunch Act provides special cash assistance payments to aid schools in providing free and reduced price lunches. The section 11 National Average Payment Factor for each reduced price lunch served is set at 40 cents less than the factor for each free lunch.

As authorized under sections 8 and 11 of the National School Lunch Act (42 U.S.C. 1757, 1759a), maximum reimbursement rates for each type of lunch are prescribed by the Department in this Notice. These maximum rates are to ensure equitable disbursement of Federal funds to school food authorities.

Afterschool Snack Payments in Afterschool Care Programs—Section 17A of the National School Lunch Act (42 U.S.C. 1766a) establishes National Average Payments for free, reduced price and paid afterschool snacks as part of the National School Lunch Program.

Breakfast Payment Factors—Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) establishes National Average Payment Factors for free, reduced price and paid breakfasts served under the School Breakfast Program and additional payments for free and reduced price breakfasts served in schools determined to be in ''severe need'' because they serve a high percentage of needy children.

Revised Payments

The following specific Section 4, Section 11 and Section 17A National Average Payment Factors and maximum reimbursement rates for lunch, the afterschool snack rates and breakfast rates are in effect from July 1, 1999 through June 30, 2000. Due to a higher cost of living, the average payments and maximum reimbursements for Alaska and Hawaii are higher than those for all other States. The District of Columbia, Virgin Islands, Puerto Rico and Guam use the figures specified for the contiguous States.

National School Lunch Program Payments

Section 4 National Average Payment Factors—In school food authorities which served *less than 60 percent* free and reduced price lunches in School Year 1997–98, the payments for meals served are: *Contiguous States*—paid rate—19 cents, free and reduced price rate—19 cents, maximum rate—27 cents; *Alaska*—paid rate—30 cents, free and reduced price rate—30 cents, maximum rate—42 cents; *Hawaii*—paid rate—22 cents, free and reduced price rate—22 cents, maximum rate—31 cents.

In school food authorities which served *60 percent or more* free and reduced price lunches in School Year 1997–98, payments are: *Contiguous States*—paid rate—21 cents, free and reduced price rate—21 cents, maximum rate—27 cents; *Alaska*—paid rate—32 cents, free and reduced price rate—32 cents, maximum rate—42 cents; *Hawaii*—paid rate—24 cents, free and reduced price rate—24 cents, maximum rate—31 cents.

Section 11 National Average Payment Factors—Contiguous States—free lunch—179 cents, reduced price lunch—139 cents; *Alaska*—free lunch—291 cents, reduced price lunch—251 cents; *Hawaii*—free lunch—210 cents, reduced price lunch—170 cents.

Afterschool Snacks in Afterschool Care Programs—The payments are: *Contiguous States*—free snack—54 cents, reduced price snack—27 cents, paid snack—5 cents; *Alaska*—free snack—88 cents, reduced price snack—44 cents, paid snack—8 cents; *Hawaii*—free snack—63 cents, reduced price snack—31 cents, paid snack—5 cents.

School Breakfast Program Payments

For schools ''not in severe need'' the payments are: *Contiguous States*—free breakfast—109 cents, reduced price breakfast—79 cents, paid breakfast—21 cents; *Alaska*—free breakfast—174 cents, reduced price breakfast—144 cents, paid breakfast—30 cents; *Hawaii*—free breakfast—127 cents, reduced price breakfast—97 cents, paid breakfast—23 cents.

For schools in ''severe need'' the payments are: *Contiguous States*—free breakfast—130 cents, reduced price breakfast—100 cents, paid breakfast—21 cents; *Alaska*—free breakfast—208 cents, reduced price breakfast—178 cents, paid breakfast—30 cents; *Hawaii*—free breakfast—151 cents, reduced price breakfast—121 cents, paid breakfast—23 cents.

Payment Chart

The following chart illustrates: The lunch National Average Payment Factors with Sections 4 and 11 already combined to indicate the per lunch amount; the maximum lunch reimbursement rates; the reimbursement rates for afterschool snacks served in afterschool care programs; the breakfast National Average Payment Factors including ''severe need'' schools; and the milk reimbursement rate. All amounts are expressed in dollars or fractions thereof. The payment factors and reimbursement rates used for the District of Columbia, Virgin Islands, Puerto Rico and Guam are those specified for the contiguous States.

BILLING CODE 3410–30–U

SCHOOL PROGRAMS
MEAL, SNACK AND MILK PAYMENTS TO STATES AND SCHOOL FOOD AUTHORITIES
Expressed in Dollars or Fractions Thereof
Effective from July 1, 1999 - June 30, 2000

NATIONAL SCHOOL LUNCH PROGRAM *		LESS THAN 60%	60% OR MORE	MAXIMUM RATE
CONTIGUOUS STATES	PAID	$ .19	$ .21	$ .27
	REDUCED PRICE	1.58	1.60	1.75
	FREE	1.98	2.00	2.15
ALASKA	PAID	$ .30	$ .32	$ .42
	REDUCED PRICE	2.81	2.83	3.07
	FREE	3.21	3.23	3.47
HAWAII	PAID	$ .22	$ .24	$ .31
	REDUCED PRICE	1.92	1.94	2.11
	FREE	2.32	2.34	2.51

SCHOOL BREAKFAST PROGRAM		NON-SEVERE NEED	SEVERE NEED
CONTIGUOUS STATES	PAID	$ .21	$ .21
	REDUCED PRICE	.79	1.00
	FREE	1.09	1.30
ALASKA	PAID	$ .30	$ .30
	REDUCED PRICE	1.44	1.78
	FREE	1.74	2.08
HAWAII	PAID	$ .23	$ .23
	REDUCED PRICE	.97	1.21
	FREE	1.27	1.51

SPECIAL MILK PROGRAM	ALL MILK	PAID MILK	FREE MILK
PRICING PROGRAMS WITHOUT FREE OPTION	$ .1275	N/A	N/A
PRICING PROGRAMS WITH FREE OPTION	N/A	$ .1275	Average cost per ½ pint of milk.
NONPRICING PROGRAMS	$ .1275	N/A	N/A

AFTERSCHOOL SNACKS SERVED IN AFTERSCHOOL CARE PROGRAMS		
CONTIGUOUS STATES	PAID	$ .05
	REDUCED PRICE	.27
	FREE	.54
ALASKA	PAID	$ .08
	REDUCED PRICE	.44
	FREE	.88
HAWAII	PAID	$ .05
	REDUCED PRICE	.31
	FREE	.63

* Payments listed for Free & Reduced Price Lunches include both sections 4 and 11 funds.

BILLING CODE 3410-30-C

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), no new recordkeeping or reporting requirements have been included that are subject to approval from the Office of Management and Budget.

This action is exempted from review by the Office of Management and Budget under Executive Order 12866.

National School Lunch, School Breakfast and Special Milk Programs are listed in the Catalog of Federal Domestic Assistance under No. 10.555, No. 10.553 and No. 10.556, respectively, and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V, and the final rule related notice published at 48 FR 29114, June 24, 1983.)

Authority: Sections 4, 8, 11 and 17A of the National School Lunch Act, as amended, (42 U.S.C. 1753, 1757, 1759a, 1766a) and sections 3 and 4(b) of the Child Nutrition Act, as amended, (42 U.S.C. 1772 and 42 U.S.C. 1773(b)).

Dated: July 2, 1999.

Samuel Chambers, Jr.,

Administrator.

[FR Doc. 99–17406 Filed 7–8–99; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Forest Service

Long Clear Project, Boise National Forest, Boise County, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare environmental impact statement.

SUMMARY: The Boise National Forest will prepare an environmental impact statement (EIS) to document the analysis and disclose the environmental impacts of a proposed timber sale, and road and dispersed-campsite treatments (including road closures), in the Lower Clear Creek subwatershed of the Clear Creek drainage. During the winter months of 1996–97, heavy snows and saturated soils caused blow down of trees within the Clear Creek drainage of the Lowman Ranger district. The blown down trees were subsequently attacked by Douglas-fir beetles in the spring and summer of 1997. Pure, dense stands of Douglas-fir stressed by drought and previous insect or disease attack are particularly susceptible to Douglas-fir beetle infestations that can kill large forested areas. Because there are dense, stressed Douglas-fir stands within the project area, many of these areas are at risk of insect and disease infestation. Some areas also remain less resistant and resilient to unnaturally severe wildfire. These areas need to be thinned, and in some cases, seral species need to be restored, to improve their resistance and resilience to uncharacteristic events. Some trees are infested with bark beetles or infected with mistletoe and other disease, and are expected to die. Prompt salvage of these trees is needed if their economic value is to be captured. In addition, many roads within the project area are contributing sediment, and need to be reconstructed, rehabilitated and/or closed to enhance water quality, protect native fish habitat and help restore healthy aquatic conditions in the Clear Creek watershed. The ford on the Long Clear road (Forest road 545), and dispersed campsites, need to be treated to reduce impacts to water quality and fish habitat.

During the winter and spring of 1998, the Lowman District prepared an environmental assessment (EA) for this proposed timber sale and a Decision Notice and Finding of No Significant Impact was signed in May 1998. Subsequently, American Wildlands and the Idaho Sporting Congress filed suit in Federal District Court. The District Court's decision found the EA did not contain or refer to the ''hard data'' supporting the project's purpose and need, and directed the Forest Service to prepare adequate National Environmental Policy Act (NEPA) documentation for the proposed project. The Forest Service has determined an EIS is the appropriate form of documentation for the proposed Long Clear Timber Sale.

The Lowman Ranger District of the Boise National Forest proposes to treat about 5,700 acres through commercial thinning, precommercial thinning, salvage harvest, and reforestation, to reduce stand density and improve resistance and resilience to uncharacteristic events, and to capture the economic value of dead and dying trees. No timber harvest would occur in Riparian Habitat Conservation Areas or in the Deadwood or Red Mountain Inventoried Roadless Areas. Twelve pheromone bait stations have been established to attract Douglas-fir bark beetles into easily accessible concentrations of trees. These bait stations resulted in Douglas-fir bark beetle infestations in approximately 400 trees. These 400 trees would be harvested as a portion of this proposal. Activity (harvest-related) fuels would be burned on about 4,600 acres to reduce fuel buildup and the potential for unnaturally intense wildfires. Prescribed fire would be undertaken on about 500 acres, to burn natural fuels in areas where natural fire has not occurred as often as could be historically expected. Ten dispersed-recreation sites along Clear Creek would be treated to reduce impacts on water quality and fish habitat resulting from recreational use. A total of 6.9 miles of currently open but impassable road would be closed year long to full-sized motorized vehicles and converted to a seasonal motorized trail. A total of 3.6 miles of currently open roads would be closed and revegetated, and 2.1 miles of currently closed roads would be revegetated. The Long Creek road (Forest road 545) bridge across Clear Creek would be reconstructed, eliminating use of the current ford. Additionally, approximately 20 miles of existing road (mostly along the Long Creek road) would be reconstructed to facilitate harvest activities and reduce sediment delivery, in accordance with INFISH guidelines.

DATES: Written comments concerning the scope of the analysis described in this Notice should be received by July 23, 1999 to ensure timely consideration. No scoping meetings are planned at this time.

ADDRESSES: Send written comments to Jackie Andrew, Project Coordinator, Lowman Ranger District, 7359 Highway 21, Lowman, ID 83637.

FOR FURTHER INFORMATION CONTACT: Questions concerning the proposed action and EIS should be directed to Jackie Andrew at 208–259–3361.

SUPPLEMENTARY INFORMATION: The Forest Service is seeking information and comments from Federal, State, and local agencies, as well as individuals and organizations who may be interested in, or affected by, the proposed action. The Forest Service invites written comments and suggestions on the issues related to the proposal and the area being analyzed.

Information received will be used in preparation of the draft EIS and final EIS. For the most effective use, comments should be submitted to the Forest Service within 30 days from the date of publication of this Notice in the **Federal Register**. The Responsible Official is David D. Rittenhouse, Forest Supervisor, Boise National Forest. The decision to be made is whether to thin and harvest National Forest System timber, treat roads and dispersed campsites, and reduce natural and activity fuels through prescribed fire. The draft EIS is expected to be available

for public review in September 1999, with a final EIS estimated to be completed in November 1999. The comment period on the draft EIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**. 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 EIS's 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 EIS stage but not raised until after completion of the final EIS 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 those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapter of the draft EIS. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the draft EIS. 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. Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentially should be aware that, under the FOIA, confidentiality may be granted in only limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester the comments may be resubmitted with or without name and address within 10 days.

Dated: June 29, 1999.

David Rittenhouse,

Forest Supervisor.

[FR Doc. 99–17127 Filed 7–8–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Meadow Smith Project Environmental Impact Statement; Flathead National Forest, Swan Lake Ranger District, Lake and Missoula Counties, State of Montana

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) for a proposal to harvest timber, commercial and pre-commercial tree thinning, burn brush fields or forest understory trees, reclaim and construct roads, change road access, improve fish passages, wet land restoration, and reduce sediment sources within the Meadow Smith Project area. The project area is located in the upper Swan Valley and is approximately 35 miles air miles southeast of Bigfork, Montana in the vicinity of the community of Condon.

The Forest Service is seeking further information and comments from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed actions. These comments will be used to prepare the draft EIS.

DATES: The draft EIS is expected to be filed with the Environmental Protection Agency and made available for public review in August, 1999. No date has yet been determined for filing the final EIS.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.**

ADDRESSES: You may request to be placed on the project mailing list or direct questions, comments, and suggestions about the proposed action and EIS to Keith Soderstrom, EIS Team Leader, or Chuck Harris, District Ranger, Swan Lake Ranger District, 200 Ranger Station Road, Bigfork, MT 59911. Phone: (406) 837–7500.

The proposal's actions listed above are being considered together because they represent either connected or cumulative actions as defined by the Council on Environmental Quality (40 CFR 1508.25).

The Forest Service believes the current forest conditions resulting from large wildfires that occurred near the turn of the century and subsequent management decisions are causing adverse effects. Specifically, the encroachment of shade tolerant tree species on dry sites historically dominated by open-grown, large-tree communities has caused an overall reduction of individual tree health; increased risk of property damage on both national forest and adjacent private land from large and intense wildfires; and, a decrease in the presence of open-grown, large tree ponderosa pine and western larch forests. The Forest Service also believes implementing a no action alternative will further increase these effects in the future. The proposed actions may have short term significant effects on wildlife, but long term benefits to the function of the ecosystem are more desirable.

The EIS will tier to the Flathead National Forest Land and Resource Management Plan (LRMP) and EIS of January, 1986, and its subsequent amendments, which provide overall guidance of all land management activities on the Flathead National Forest.

Decision To Be Made

Should the Forest Service implement the proposed action or any action to meet the purpose and need or to defer any action at this time within the Meadow Smith Project area? The deciding official for this project is Chuck Harris, Swan Lake District Ranger, Flathead National Forest.

Preliminary Issues and Alternatives

Public and internal scoping which has already occurred for this project includes two public meetings, four public field trips; three mailings to Federal, State, and local agencies and other individuals or organizations; personal conversations with interdisciplinary team members and members of the public, and news media releases. An Environmental Assessment has been completed for this proposal and made available for public comment;

based on comments received, the Forest Service has decided to prepare an Environmental Impact Statement. Through public and internal scoping, the following significant issues emerged:

SUPPLEMENTARY INFORMATION:

Nature and Scope of the Proposed Action

Ponderosa pine and western larch forests in the Swan Valley were once a mosaic of open, park like stands that supported large trees. Fire suppression and timber harvesting in this century have changed these forests. Many of the remaining stands of ponderosa pine and western larch have become densely overgrown with mid-story and understory Douglas-fir, subalpine fir, spruce, and grand fir trees. These shade tolerant species are growing into the crowns of the older ponderosa pine and western larch. This creates ''fuel ladders'' that put ponderosa pine and western larch at increased risk should a fire occur. Historically, the low intensity ground fires will have thinned out these shades tolerant species. Trees in these dense stands are also susceptible to insects and pathogens. Dead or diseased trees increase the risk of fire. The closed forest canopy is also shading and reducing the vigor of shrub, grass, and forb populations associated with open forest conditions.

This proposal addresses the need to restore old growth forest characteristics within the Upper Swan Valley. The proposed management actions are intended to increase the presence of open-grown, large-tree ponderosa pine and western larch forests; lower the risks of loss of mature large trees from insects, disease, and lethal fire; and return fire, in the form of prescribed fire, as a process of forest succession.

The proposed action outlines 2,090 acres of vegetation treatments which include prescribed burning, pre-commercial thinning, and varying intensities of timber harvest with associated fuels treatments and preparation for reforestation. The proposed action includes 2.9 miles of road reclamation, 3.3 miles of temporary road construction and subsequent restoration, improved fish passages at 3 sites, culvert replacement at one site, wetland restoration (filling a man-made ditch) at one site, and approximately 5.5 miles of fuel breaks on upland sites adjacent to private lands. In addition, road access changes are proposed for 3.0 miles, and establishing approximately 5.5 miles of fuel breaks on upland sites adjacent to private lands.

1. Effects of vegetation treatments on big game winter range habitat.

2. Effects of vegetation treatments on existing and future old growth forest communities. The interdisciplinary team has developed alternatives to the proposed action that respond to these significant issues.

The Forest Service believes it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel, 803 F.2d 1016, 1022 (9th Cir. 1986)* and *Wisconsin Heritages, Inc.* v. *Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).* Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. 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.

Following this comment period, the comments received will be analyzed, considered, and responded to by the Forest Service in the final environmental impact statement (FEIS). Chuck Harris, District Ranger, Swan Lake Ranger District, 200 Ranger Station Road, Bigfork, MT 59911 is the responsible official for the preparation of the EIS and will make a decision regarding this proposal considering the comments and responses, environmental consequences discussed in the FEIS, and applicable laws, regulations, and policies. The decision and rational for the decision will be documented in a Record of Decision. That decision will be subject to appeal under applicable Forest Service regulations.

Dated: July 2, 1999.

Chuck Harris,

District Ranger, Swan Lake Ranger District, Flathead National Forest.

[FR Doc. 99–17476 Filed 7–8–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Threemile Timber Harvest, Tongass National Forest; Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Revision of the Notice of Intent to Prepare an Environmental Impact Statement for the Threemile Timber Harvest as published in **Federal Register** page 13766–13767, on March 22, 1999. This revision includes changes in the proposed action, the size of the project area, as well as changes in the project schedule.

SUMMARY: The Department of Agriculture, Forest Service, will prepare an Environmental Impact Statement (EIS) to provide timber for the Tongass National Forest timber sale program. The Record of Decision will disclose how the Forest Service has decided to provide harvest units, roads, and associated timber harvesting facilities. The revised proposed action is to harvest timber in the Threemile Project area on Kuiu Island with associated road construction as well as a new log transfer facility at Threemile Arm.

A range of alternatives responsive to significant issues will be developed including a no-action alternative. The proposed timber harvest is located in the Tongass National Forest, Petersburg Ranger District, on Kuiu Island. Alaska, within the Threemile Arm area. The *Tongass Land and Resource Management Plan* (1999) provides the overall guidance (land use designations, goals, objectives, management prescriptions, standards and guidelines) to achieve the desired future condition for the area in which this project is proposed. The Forest Plan allocates portions of the project area into three management prescriptions: Timber Production, Modified Landscape, and Old-growth Habitat Land Use Designations.

DATES: For the Forest Service to best use the scoping input, comments should be received by August 1, 1999; however, scoping comments will be accepted at any time. Comments received in response to the original Notice of Intent are also accepted.

ADDRESSES: Please send written comments to Petersburg Ranger District; Tongass National Forest, Attn: Threemile Timber Harvest EIS; PO Box 1328, Petersburg, AK., 99833.

INFORMATION CONTACT: Questions about the proposal and EIS should be directed to Everett Kissinger, Interdisciplinary Team Leader, PO Box 1328, Petersburg, AK, 99833, phone (907) 772–3841.

SUPPLEMENTARY INFORMATION: Public participation will be part of the planning process and will be especially important at several points during the analysis. The first is during the scoping process. The Forest Service will be seeking information, comments, and assistance from federal, tribal, state, and local agencies, and from individuals and organizations that may be interested in, or affected by, the proposed activities. The scoping process will include: (1) Identification of potential issues; (2) identification of issues to be analyzed in depth; and (3) elimination of insignificant issues or those which have been covered by a previous environmental review. Written scoping comments will be solicited through a scoping package sent to a project mailing list. For the Forest Service to best use the scoping input, comments should be received by August 1, 1999; however, scoping comments will be accepted at any time. Tentative issues identified for analysis in the EIS include subsistence, wildlife habitat, road development and access management, and timber sale economics and timber supply. Based on the results of scoping and the resource capabilities within the project area, alternatives including a no-action alternative will be developed for a Draft Environmental Impact Statement (Draft EIS). The Draft EIS is projected to be filed with the Environmental Projection Agency (EPA) in January 2000. Subsistence hearings, as provided for in Title VIII, Section 810 of the Alaska National Interest Lands Conservation Act (ANILCA), may be conducted during the comment period on the Draft EIS if the analysis indicates a significant effect to subsistence uses. The Final EIS is anticipated by July, 2000.

The comment period on the Draft EIS will be 45 days from the date the Environmental Protection Agency publishes a notice of availability in the **Federal Register.**

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). Environmental objections that could have been raised at the draft environmental impact statement stage may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2nd 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 comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns of the proposed action, comments during scoping and comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific areas with the project area are specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulation for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received in response to this solicitation, including names and address of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR parts 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Requests should be aware that, under FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within 7 days.

Permits: Those required for implementation include the following:

1. U.S. Army Corps of Engineers
—Approval of discharge of dredged or fill material into the waters of the United States under Section 404 of the Clean Water Act;
—Approval of the construction of structures or work in navigable waters of the United States under Section 10 of the Rivers and Harbors Act of 1989;
2. Environmental Protection Agency
—National Pollutant Discharge Elimination System (402) Permit;
—Review Spill Prevention Control and Countermeasure Plan;
3. State of Alaska, Department of Natural Resources
—Tideland Permit and Lease or Easement;
4. State of Alaska, Department of Environmental Conservation
—Solid Waste Disposal Permit;
—Certification of Compliance with Alaska Water Quality Standards (401 Certification)
5. State of Alaska, Division of Governmental Coordination
—Coastal Zone Consistency Determination concurrence

RESPONSIBLE OFFICIAL: Carol J. Jorgensen, Assistant Forest Supervisor, Stikine Area, Tongass National Forest, PO Box 309, Petersburg, AK 99833, is the responsible official. The responsible official will consider the comments, responses, disclosure of environmental consequences, and applicable laws, regulations, and policies in making the decision and stating the rationale in the Record of Decision.

Dated: June 21, 1999.

Carol J. Jorgensen,

Assistant Forest Supervisor.

[FR Doc. 99–17477 Filed 7–8–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Southwest Washington Provincial Advisory Committee Meeting; Notice

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southwest Washington Provincial Advisory Committee will meet on Tuesday, July 20, 1999, at the Port of Skamania County meeting room, located at 70 SE Cascade, Stevenson, Washington. The meeting will begin at 10 a.m. and continue until 5 p.m. The purpose of the meeting is to present: (1) The National Forest roads policy and how that affects the roads policy on the Gifford Pinchot National Forest; (2) the timber and recreation aspects of monitoring the Northwest Forest Plan; (3) restoration monitoring; (4) an update on the timber sale plan; (5) an update on survey and manage; and (6) a Public Open Forum. All Southwest Washington Provincial Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. The ''open forum'' provides opportunity for the public to bring issues, concerns, and discussion topics to the Advisory Committee. The ''open forum'' is scheduled as part of agenda item (6) for this meeting. Interested speakers will need to register prior to the open forum period. The committee welcomes the public's written comments on committee business at any time.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Linda Turner, Public Affairs Specialist, at (360) 891–5195, or write Forest Headquarters Office, Gifford Pinchot National Forest, 10600 NE. 51st Circle, Vancouver, WA 98682.

Dated: July 2, 1999.

Peggy Kain,

Acting Deputy Forest Supervisor.

[FR Doc. 99–17485 Filed 7–8–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Stewardship Contracting Pilot Projects

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: The Forest Service is implementing pilot projects to study whether alternate means of contracting on National Forest System lands can better accomplish program objectives. Section 347 of the FY 1999 Omnibus Appropriations Act authorizes the Forest Service to enter into twenty-eight ''stewardship end result contracting demonstration projects'' to pilot test an array of new authorities for giving national forest managers greater administrative flexibility to improve forest conditions and address the needs of local communities.

ADDRESSES: Questions about this notice may be sent to Cliff Hickman, via mail at USDA Forest Service, Forest Management, Mail Stop 1105, P.O. Box 96090, Washington, DC 20090–6090 or electronically to chickman/wo/@fs.fed.us. Electronic copies of Section 347 of the FY 1999 Omnibus Appropriations Act may be obtained via Internet at www.fs.fed.us/land/fm/stewardship/framework.html.

FOR FURTHER INFORMATION CONTACT: Cliff Hickman, Forest Management Staff, (202) 205–1162, or chickman/wo@fs.fed.us.

SUPPLEMENTARY INFORMATION: Many forests within the National Forest System are currently experiencing conditions that jeopardize long-term ecosystem health and sustainability (such as, high fuel loadings, impaired watersheds, and habitat loss). The Forest Service seeks to respond to these problems in an efficient and cost-effective manner to maximize treated acreage without undue administrative delay. In addition to natural resource benefits, local economies may benefit as a result of the Forest Service using private contractors to implement needed ecosystem restoration, maintenance, or protection activities.

The Forest Service's current contracting authorities are limited in their ability to address the agency's changing forest management challenges because those laws were originally designed to sell and remove forest products of commercial value. To address many of today's most pressing forest health concerns (such as excessive fuel loadings), the agency needs to remove material of relatively little to no economic value. Except within very narrowly defined limits, the agency's current timber sale authorities preclude the federal government from requiring purchasers to perform land management services not directly associated with removing purchased timber. This often results in making multiple entries on the same site using multiple service contracts to implement desired treatments. The need for multiple entries and contracts increases the potential for environmental degradation and adds to the administrative costs.

Stewardship contracts are generally multiserve and multiyear procurements, are end result oriented, and generally authorize the exchange of goods for services. Given these attributes, stewardship contracts may greatly enhance the agency's ability to implement needed ecosystem restoration, maintenance, or protection activities.

Background

In Fiscal Years 1992 and 1993, the Forest Service was given limited authority to experiment with stewardship contracting. Language in the appropriations act for these 2 years provided that tests cold be conducted on five administrative units (the Idaho Panhandle National Forest in Region 1, the Coconino and Kaibab National Forests in Region 3, the Dixie National Forest in Region 4, and the Lake Tahoe Basin Management Unit in Region 5) and also authorized the exchange of goods for services. Test units conducted such work as: site preparation, replanting, silviculture activities, recreation activities, wildlife habitat improvement, and other multiple-use enhancements. These projects were funded, in part, by the products sold from the test sites.

In its final report to Congress on the results of these tests, the agency concluded that: (1) in instances where the primary reason for manipulating vegetation was to create specific resource conditions, rather than to produce fiber, stewardship contracting could be an extremely useful management tool, and (2) certain issues needed to be resolved before stewardship contracting could be applied more broadly or on a permanent basis. Key concerns identified during the study included: the handling of payments to states, the competitive disadvantage small businesses may have due to inadequate resources (such as, skills, finances, equipment), and the difficulties inherent in trying to fund multiyear contracts out of a single year's appropriated funds.

In October of 1996, in recognition of the growing need to find better ways to manage vegetation, especially material that is of little or no commercial value, the Forest Service held a national scoping workshop on the subject of ''Improving Administrative Flexibility and Efficiency in the National Forest Timber Sale Program.'' At this meeting, a broad array of stakeholders discussed stewardship contracting and other potentially innovative ways of managing national forest vegetation within an ecosystem context. An outcome of the workshop was a new initiative with the following objectives:

- To find new ways to accomplish needed vegetation treatments more effectively and efficiently.
- To investigate how the Forest Service's existing authorities can be used more creatively to accomplish needed vegetation treatments.

• To demonstrate the role of vegetation management in resource stewardship.

• To demonstrate the role that ecosystem restoration, maintenance, and protection activities play in helping to sustain rural communities.

• To demonstrate the advantages of improved communication and joint problem solving among stakeholders concerned with restoring the diversity and productivity of forested watersheds.

This initiative is proceeding along two complementary paths: (1) determining how the agency can take maximum advantage of its existing authorities, and (2) evaluating what new authorities are needed to accomplish resource objectives. The first pathway has resulted in the publication of a booklet describing the agency's current authorities and their usefulness in implementing innovative land stewardship projects. This booklet is available from the Pinchot Institute for Conservation, Washington, DC.

In an effort to explore the second pathway, all National Forest System field units were invited in the summer of 1997 to nominate pilot projects that could test new and innovative ways of achieving diverse vegetation management goals. Field managers were encouraged to suggest useful projects that would entail applying processes and procedures beyond the scope of the agency's current authorities. A total of 52 nominations were received, including proposals from each region.

In November of 1997, an interdisciplinary team of resource specialists from both the Washington Office and the field reviewed the nominations and recommended that 22 projects be implemented as pilots. Criteria considered during the selection process included the following: the ability of the project to increase the existing knowledge of how to achieve national forest vegetative management goals more effectively and efficiently, the potential of the project to yield results applicable in a wide range of geographic and ecosystem settings, the number of committed cooperators and the level of public support for implementation of the project, and the degree to which the project would address one or more of the agency's natural resource priorities (improving water quality, riparian restoration, forest and rangeland ecosystem health, and promoting responsible recreation use).

Stewardship Pilots

Section 347 of the FY 1999 Omnibus Appropriations Act (Act) authorizes the Forest Service to implement up to 28 stewardship end result contracts, nine of which by law must be in Region 1. This Act also enumerates the new processes and procedures that the agency may test, to include: (1) awarding of contracts on the basis of ''best value;'' (2) issuing service contracts up to 10 years duration; (3) exchanging goods for services; (4) retaining receipts; (5) offering sales valued at over $10,000 without advertisement; (6) designating timber to be cut by prescription or description; and (7) collecting brush disposal and cooperative deposits when the agency conducts contract logging with subsequent sale of the cut products.

The land management goals that may be pursued through a Section 347 contract are set forth in subsection (b) of the legislation. They include, but are not limited to, the following: (1) Road and trail maintenance or obliteration to restore or maintain water quality; (2) soil productivity, habitat for wildlife and fisheries, or other resource values; (3) prescribed fires to improve the composition, structure, condition, or health of stands or to improve wildlife habitat; (4) noncommercial cutting or removal of trees or other activities to promote healthy forest stands, reduce fire hazards, or achieve other noncommercial objectives; (5) watershed restoration and maintenance; (6) restoration and maintenance of wildlife and fish habitat; and (7) control of noxious and exotic weeds or reestablishment of native plant species.

With regard to the noncommercial cutting or removal of trees, the Forest Service has interpreted ''noncommercial'' to mean a project where the primary purpose is to achieve some nontimber objective, established in the forest plan, that requires manipulating the existing vegetation, such as, improving forest health, reducing the risk of catastrophic wildfire, or creating desired wildlife habitat conditions. Sawtimber-sized trees could be removed during such projects and sold, but the sale of such timber would be secondary to achieving the forest plan objective.

Because of the limited scope of the pilot testing, the need to provide a better basis for evaluating the exchange of goods-for-services concept, and because the focus of the authorized projects is the noncommercial cutting of trees, subsection (d)(3) of the Act states that any receipts from the pilot projects are not to be considered in determining required payments to states and counties.

Twenty-seven Stewardship Pilot Projects have been selected: North Fork Big Game Habitat Restoration Project (Clearwater NF), Three Mile Restoration Project (Custer NF), Paint Emery Stewardship Demonstration Project (Flathead NF), Priest Pend Oreille Land Stewardship Project (Idaho Panhandle NF), Yaak Community Stewardship Proposal (Kootenai NF), Dry Wolf Project (Lewis & Clark NF), Clearwater Project (Lolo NF), Knox-Brooks Results Based Stewardship Proposal (Lolo NF), South Fork Clearwater River Stewardship Proposal (Nez Perce NF), Winiger Ridge Restoration Project (Arapaho-Roosevelt NF), Mt. Evans Collaborative Stewardship Project (Arapaho-Roosevelt NF), Upper Blue Stewardship Project (White River NF), SW Ecosystem Stewardship Project (San Juan NF), Beaver Meadows Restoration Project (San Juan NF), Grand Canyon Stewardship Project (Coconino NF), Cottonwood/Sundown Watershed Project (Apache-Sitgreaves NF), North Kennedy Forest Health Project (Boise NF), Monroe Mountain Ecosystem Restoration Project (Fishlake NF), Grassy Flats Project (Shasta-Trinity NF), Pilot Creek Project (Six Rivers NF), Baker City Watershed Project (Wallowa-Whitman NF), Antelope Pilot Project (Winema NF), Upper Glade LMSC Project (Rogue River NF), Littlehorn Wild Sheep Habitat Restoration (Colville NF), Wayah Contract Logging Service Project (National Forests in North Carolina), Nolichucky-Unaka Stewardship (Cherokee NF), and Contract Logging/Stewardship Services (George Washington-Jefferson NF).

The agency is working on a multiparty monitoring and evaluation process as required by subsection (g) of the Act. Notice of the process will be published in the **Federal Register** as a separate notice for public comment.

Dated: July 1, 1999.

Robert Lewis, Jr.,

Acting Associate Chief.

[FR Doc. 99–17439 Filed 7–8–99; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: August 9, 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.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodity and 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 commodity and services to the Government.

2. The action will result in authorizing small entities to furnish the commodity and 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 commodity and 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 commodity and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodity

Stapler

7520–01–315–9854
NPA: Occupations, Inc., Middletown, New York

Services

Facilities Management

Federal Center, Defense Logistics Information Services (DLIS), 74 North Washington Street, Battle Creek, Michigan
NPA: Peckham Vocational Industries, Inc., Lansing, Michigan

Janitorial/Custodial

U.S. Department of Agriculture, Animal Plant Health Inspection Services (APHIS), Plant Protection and Quarantine (PPQ), 214 North Andes Avenue, Orlando, Florida
NPA: Lakeview Center, Inc., Pensacola, Florida

Janitorial/Custodial

Fort Hamilton Proper, Fort Hamiliton Manor and Fort Hamiliton Tenants (less buildings 114 & 116), Fort Hamilton, New York
NPA: Fedcap Rehabilitation Services, Inc., New York, New York

Janitorial/Custodial

U.S. Army Reserve Center, Building 213, Fort Hamilton, New York
NPA: Fedcap Rehabilitation Services, Inc., New York, New York

Linen Rental

New Orleans Naval Air Station, New Orleans Naval Support Activity, New Orleans, Louisiana
NPA: St. Tammany Association for Retarded Citizens, Inc., Slidell, Louisiana
Operation of Individual Equipment Element Store, Pope Air Force Base, North Carolina
NPA: Lions Club Industries, Inc., Durham, North Carolina

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–17479 Filed 7–8–99; 8:45 am]

BILLING CODE 6353–01–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 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: August 9, 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 March 22, May 7 and 21, 1999, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (64 FR 13767, 24570 and 27752) of proposed additions to and deletions from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the 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 services to the Government.

2. The action will not have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the 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 services proposed for addition to the Procurement List.

Accordingly, the following services are hereby added to the Procurement List:

Eyewear Prescription Service

Phoenix Indian Medical Center, Department of Health and Human Services, Phoenix, Arizona

Operation of Postal Service Center

Davis-Monthan Air Force Base, Arizona

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:

Basin, Wash

6530–01–075–2723
6530–01–166–9035

Cleaning and Degreasing Compounds

6850–01–383–3038
6850–01–383–3042
6850–01–383–3045
6850–01–383–3046
6850–01–383–3047
6850–01–383–3052
6850–01–383–3053
6850–01–383–3054
6850–01–383–3056
6850–01–383–3058
6850–01–383–3059
6850–01–383–3060
6850–01–430–7134
6850–01–430–7135
6850–01–430–7137
6850–01–430–7138
6850–01–430–7139
6850–01–430–7140

Bedspread

7210–00–728–0175
7210–00–728–0187

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–17480 Filed 7–8–99; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Export Administration.

Title: Requests For Appointment Of Technical Advisory Committee.

Form number(s): Not applicable.

Agency Approval Number: 0694–0100.

Type of Request: Renewal of an existing collection.

Burden: 5 hours.

Number of respondents: 1.

Average hours per response: 5.

Needs and uses: The Technical Advisory Committees (TACs) were established to advise and assist the U.S. Government on export control matters. In managing the operations of the TACs, the Department of Commerce is responsible for implementing the policies and procedures prescribed in the Federal Advisory Committee Act. The Bureau of Export Administration provides technical and administrative support for these committees. The TACs advise the government on proposed revisions to export control lists, licensing procedures, assessments of the foreign availability of controlled products, and export control regulations. Any producer of items subject to export controls can make application to the Department requesting that a committee be established. The information provided is used to determine if the creation of a committee is appropriate.

Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required for benefit.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, Office of the Chief Information Officer, (202) 482–3272, Department of Commerce, room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme.doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, room 10202, New Executive Office Building, Washington, DC 20503.

Dated: July 2, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–17482 Filed 7–8–99; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Export Administration.

Title: Miscellaneous Activities.

Form number(s): Not applicable.

Agency Approval Number: 0694–0102.

Type of Request: Renewal of an existing collection.

Burden: 10 hours.

Number of respondents: 2.

Average hours per response: 5.

Needs and uses: On September 30, 1993, the Secretary of Commerce submitted to the Congress a report of the Trade Promotion Coordinating Committee, entitled **Toward a National Export Strategy.** The report included the goal to ''Undertake a comprehensive review of the Export Administration Regulations to simplify, clarify, and make the regulations more user-friendly.'' To carry out this recommendation, BXA has rewritten the entire EAR. During the course of this process, many activities imposed on the public were changed to reduce the burden, however the methods varied. Some were merely eliminated; others had old activities replaced with newer, simpler activities, and still others had new activities added to permit participation in programs where prohibitions once existed. Therefore, to the extent activities have been added or changed but not deleted, this collection represents the authority to collect, on rare occasions, certain information from the public. This assembly of information collection activities is comprised of two activities. The two of these—''**Registration Of U.S. Agricultural Commodities For Exemption From Short Supply Limitations On Export**'' and ''**Petitions For The Imposition Of Monitoring Or Controls On Recyclable Metallic materials; Public Hearings**'' are statutory in nature and—though they never have been applied—must remain a part of BXA's information collection budget authorization.

Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required for benefit.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, Office of the Chief Information Officer, (202) 482–3272, Department of Commerce, room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, room 10202, New Executive Office Building, Washington, DC 20503.

Dated: July 2, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–17483 Filed 7–8–99; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DoC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Patent and Trademark Office (PTO).

Title: Supplemental Declaration for Reissue Patent Application (Proposed Addition to 0651–0033, Post Allowance.

Form Number: PTO/SB/51S.

Agency Approval Number: 0651–0033.

Type of Request: Revision of a currently approved collection (proposed addition of a new form to collection).

Burden: 10.5 hours annually.

Number of Respondents: 350 responses annually.

Average Hours Per Response: Based on estimates and knowledge of the form, the PTO estimates the burden hours required by the public to gather, prepare, and submit Form PTO/SB/51S, Supplemental Declaration for a Reissue Patent Application under 37 CFR 1.175, to be approximately 1.8 minutes.

Needs and Uses: The Supplemental Declaration for Reissue Patent Application, Form PTO/SB/51S, is used by the patentee to correct errors in the patent that occurred ''without any deceptive intention'' on the part of the patentee. It is also used by the patentee to obtain a reissue patent. The PTO uses this declaration to correct errors in the original patent that occurred ''without deceptive intent.'' It is also used by the PTO to reissue the patent.

Affected Public: Individuals or households, businesses or other for-profit, not-for-profit institutions, farms, federal government, and state, local, or tribal governments.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Peter Weiss, (202) 395–3630.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Departmental Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5033, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication to Peter Weiss, OMB Desk Officer, Room 10236, New Executive Office Building, 725 17th Street, NW., Washington, DC 20503.

Dated: July 2, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–17484 Filed 7–8–99; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Technology Administration

Proposed Information Collection; Licensing of Government-Owned Inventions

AGENCY: Technology Administration, Commerce.

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 comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995, PL 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be received on or before September 7, 1999.

ADDRESSES: Direct all written comments to Linda Engelmeier, Department Forms Clearance Officer, Room 5327, Herbert C. Hoover Building, U.S. Department of Commerce, Washington, DC 20230 (or via Internet at LEngelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: John Raubitschek, Department Patent Counsel, by telephone at (202) 482–8010.

SUPPLEMENTARY INFORMATION:

I. Background

In 1980, the Bayh-Dole Act (PL 96–517) authorized all government agencies to license their inventions. Each applicant for a license must submit a marketing or development plan (35 U.S.C. 209(a)). In 1981, GSA issued a regulation to implement Bayh-Dole and obtained OMB approval for the collection of information under this regulation.

The licensing regulation was reissued in 1985 by DOC after assuming the responsibility from GSA in 1984 (35 U.S.C. 208). The details of an application for a license appear in 37 CFR 404.8 and include a marketing or development plan. Although it takes time to develop an effective plan, we expect that most will have a plan in mind before applying for a license. Periodic utilization reports are authorized by 37 CFR 404.5(b)(6).

About 325 licenses in total are issued every year by Government agencies. There are about 1,500 active patent licenses and each license requires an annual utilization report.

II. Data

OMB Number: None (previously cleared under GSA Control No. 8090–0108).

Form Number: None.

Type of review: Regular submission of a collection in use without formal OMB approval.

Affected Public: Any person or company seeking a patent license from the Government and any active licensee.

Estimated Number of Respondents: 400/yr applicants and 1,500/yr active licensees.

Estimated Times Per Response: 2 hrs per applicant and 15 minutes per licensee.

Estimated Total Annual Burden Hours: 800 + 400 = 1,200 hrs.

Estimated Total Annual Cost to Public: $0 (no capital costs).

III. Request for Comments

Comments are invited on: (a) Whether the collected information is necessary to implement 35 U.S.C. 209; (b) the accuracy of the Department's estimate of the burden (including hours and cost) of the 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 on respondents.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection. They will also become a matter of public record.

Dated: July 2, 1999.

Linda Engelmeier,

Department Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–17481 Filed 7–8–99; 8:45 am]

BILLING CODE 3510–18–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 990513129–9129–01]

RIN 0648–ZA65

NOAA Climate and Global Change Program, Program Announcement

AGENCY: Office of Global Programs, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The Climate and Global Change Program represents a National Oceanic and Atmospheric Administration (NOAA) contribution to evolving national and international programs designed to improve our ability to observe, understand, predict, and respond to changes in the global environment. This program builds on NOAA's mission requirements and longstanding capabilities in global change research and prediction. The NOAA Program is a key contributing element of the U.S. Global Change Research Program (USGCRP), which is coordinated by the interagency Committee on Environmental and Natural Resources. NOAA's program is designed to complement other agency contributions to that national effort.

DATES: Unless otherwise noted, strict deadlines for submission to the FY 2000 process are: Letters of intent must be received at the Office of Global Programs (OGP) no later than July 31, 1999. Full proposals must be received at OGP no later than October 15, 1999. Applicants who have not received a response to their letter of intent within four weeks should contact the Program Manager. The time from target date to grant award varies by program area. We anticipate that review of full proposals will occur during late September 1999 through March 2000, and funding should begin during the spring of 2000 for most approved projects. May 1, 2000, should be used as the proposed start date on proposals, unless otherwise directed by the appropriate Program Officer. Applicants should be notified of their status within six months. All proposals must be submitted in accordance with the guidelines below. Failure to heed these guidelines may result in proposals being returned without review.

ADDRESSES: Letters of Intent and Proposals should be submitted to: Office of Global Programs; National Oceanic and Atmospheric Administration; 1100 Wayne Avenue, Suite 1225; Silver Spring, MD 20910–5603.

FOR FURTHER INFORMATION CONTACT: Irma duPree at the above address, or at (301) 427–2089 ext. 107, fax: (301) 427–2222, Internet: duPree@ogp.noaa.gov.

SUPPLEMENTARY INFORMATION:

1. Funding Availability

NOAA believes that the Climate and Global Change Program will benefit significantly from a strong partnership with outside investigators. Current Program plans assume that over 50% of the total resources provided through this announcement will support extramural efforts, particularly those involving the broad academic community. Because of ongoing debates on the Federal budget, it is uncertain how much money will be available through this announcement. Actual funding levels will depend upon the final FY 2000 budget appropriations. This Program Announcement is for projects to be conducted by investigators both inside and outside of NOAA, primarily over a one, two or three year period. The NOAA Climate and Global Change Program has been approved for multi-year funding up to a three year duration. The funding instrument for extramural awards will be a grant unless it is anticipated that NOAA will be substantially involved in the implementation of the project, in which case the funding instrument should be a cooperative agreement. Examples of substantial involvement may include but are not limited to proposals for collaboration between NOAA or NOAA scientists and a recipient scientist or technician and/or contemplation by NOAA of detailing Federal personnel to work on proposed projects. NOAA will make decisions regarding the use of a cooperative agreement on a case-by-case basis. Funding for non-U.S. institutions and contractual arrangements for services and products for delivery to NOAA is not available under this announcement. Matching share is not required by this program.

2. Program Authority

49 U.S.C. 44720(b); 33 U.S.C. 883d, 883e; 15 U.S.C. 2904; 15U.S.C. 2931 *et seq.*; (CFDA No. 11.431)—CLIMATE AND ATMOSPHERIC RESEARCH

3. Program Objectives

The long term objective of the Climate and Global Change Program is to provide reliable predictions of climate variability and change with associated regional implications on time scales ranging from seasons to a century or more. NOAA believes that climate variability across these time scales can be modeled with an acceptable probability of success and are the most relevant for fundamental social concerns. Predicting the behavior of the coupled ocean-atmospheric-land surface system will be NOAA's primary contribution to a successful national effort to deal with observed or anticipated changes in the global environment. NOAA has a range of unique facilities and capabilities that can be applied to Climate and Global Change investigations. Proposals that seek to exploit these resources in collaborative efforts between NOAA and extramural investigators are encouraged.

4. Program Priorities

In FY 2000, NOAA will give priority attention to individual proposals in the Main Program Elements listed below. The names, affiliations and phone numbers of relevant Climate and Global Change Program Officers are provided. Funding for some programs may be limited to ongoing projects or may be used to fund projects proposed in FY 1999 that were unable to be funded due to budgetary circumstances. Prospective applicants should communicate with Program Officers for information on priorities within program elements and prospects for funding.

(A) Aerosols

The Aerosols program element focuses on research to improve the predictive understanding of the role of anthropogenic aerosols in climate focusing. For further information, please contact Joel Levy, NOAA/Office of Global Programs, 301–427–2089 ext. 111, Internet: *levy@ogp.noaa.gov*.

(B) Atmospheric Chemistry

The Atmospheric Chemistry Project focuses on global monitoring, process-oriented laboratory and field studies, and theoretical modeling to improve the predictive understanding of the atmospheric trace gases that influence the earth's chemical and radiative balance. For an information sheet containing further details, contact: Joel

M. Levy, NOAA/Office of Global Programs, 301–427–2089 ext.111, Internet: levy@ogp.noaa.gov; or Fred C. Fehsenfeld, NOAA/Aeronomy Laboratory, Boulder, CO, 303–497–5819, Internet: *fcf@al.noaa.gov*.

(C) Climate and Societal Interactions (CSI)

Research on Vulnerability, Opportunities, and Response Options. Variability, change, and surprise results from a wide variety of climatological, social, economic and ecological circumstances and interactions. The purpose of this program is to increase understanding of the impacts of climate variability and change as conditioned by ongoing processes of decision-making and socio-economic transformation. The suite of efforts is intended to further research-based integration between studies of the whole of the climate system, including human components, such as health, and evolving informational and educational needs of decision-makers in climate sensitive sectors. The goal is to provide the basis for more effective application of climate information, including climate forecasts, for purposes of adaptation. The intent of this program is to encourage overlapping research approaches to integrate knowledge for problem solving. Prospective applicants are strongly encouraged to communicate with Program Officers listed within this program.

(D) Human Dimensions of Global Change Research (HDGCR)

The Human Dimensions of Global Change Research program is aimed at understanding how social and economic systems are currently influenced by fluctuations in climate, and how human behavior can be (or why it may not be) affected based on information about variability in the climate system. In addition, a separate program announcement for HDGCR may be issued later this year because an interagency joint announcement on human vulnerability and opportunities associated with climate and environmental surprise is under consideration. For more information and a detailed information sheet, contact: Caitlin Simpson, NOAA/Office of Global Programs, 301–427–2089 ext. 152, Internet: simpson@ogp.noaa.gov.

A joint interagency announcement is also anticipated on Climate and Health. (For more information on this future announcement contact Juli Trtanj, NOAA/Office of Global Programs, 301–427–2089 ext. 134, Internet: trtanj@ogp.noaa.gov.)

(E) Regional Assessments

NOAA's present program of Regional Assessments possesses three distinct qualities: (1) Interdisciplinarity, integration and synthesis; (2) Bridging the gap between climatic, environmental and societal interactions on different temporal and spatial scales; and (3) Decision support and services. It requires innovative partnerships among a spectrum of interests (Federal, State, local and private) to enable regional organizational capacity to develop accurate (i.e., identifying risks, uncertainties, and/or indeterminacies), balanced syntheses and services on an ongoing basis. As such, the program relies heavily on consolidating the results and data from ongoing NOAA–OGP disciplinary program elements, already funded in a region, into an integrated framework. For more information and a detailed information sheet, contact: Roger Pulwarty, NOAA/Office of Global Programs, 301–427–2089 ext. 103, Internet: pulwarty@ogp.noaa.gov.

(F) Climate Change Date and Detection

The scientific goals of this element include efforts to: (1) Provide data and information management support activities needed to assure the availability of critical data sets from a variety of national and international programs of primary interest to NOAA's Climate and Global Change Program, e.g., the CLIVAR (Climate Variability and Predictability) Program, GEWEX (Global Energy & Water Cycle Experiment), GCOS (Global Climate Observing System), National and International Assessments, etc.; (2) provide data and information management support related to cross cutting science efforts necessary to assess seasonal, interannual, decadal, and longer climate variations and changes; (3) document the quantitative character of observed climate variations and changes; and (4) attribute changes in the observed climate record to specific climate forcings.

(G) NOAA/NASA Jointly Sponsored Project

A number of new starts are anticipated within the NOAA/National Aeronautics and Space Administration (NASA) co-sponsored project that supports research in the areas of data fusion and enhancement of climate data sets through the use of space and/or ground based observations. Preference will be given to those proposals that use more than one observing system to develop a blended data set.

(H) NOAA/DOE Jointly Sponsored Project

A very limited number of new starts are anticipated within the NOAA/Department of Energy (DOE) co-sponsored project that specifically addresses all aspects of Climate Change Detection and Attribution.

Additional details on the jointly sponsored projects are provided on the supplementary fact sheet included in the Program Announcement mailing (additional copies of the supplementary fact sheet can be obtained from Irma duPree at the Office of Global Programs). For further information contact: Bill Murray, NOAA/Global Programs, 301–427–2089 ext. 133, Internet: murray@ogp.noaa.gov; Chris Miller, NOAA/Global Programs, 301–427–2089 ext. 143, Internet: miller@ogp.noaa.gov; Martha Maiden, NASA/Headquarters 202/358–1078, Internet: maiden@hq.nasa.gov; or Rick Petty, DOE/Environmental Sciences Division, Germantown, MD; 301–903–5548, Internet: Rick.Petty@oer.doe.gov.

(I) Climate Dynamics and Experimental Prediction

This program will not accept applications to initiate centers at new institutions, but will accept renewal applications for ongoing efforts or as part of ongoing negotiations. Qualified applications for this program may be submitted throughout the year. For further information, contact Mark Eakin, NOAA/Global Programs, 301–427–2089 ext. 109, Internet: eakin@ogp.noaa.gov.

(J) Climate Variability and Predictability (CLIVAR)

CLIVAR focuses on the role of the coupled ocean and atmosphere within the overall climate system, with emphasis on variability, especially within the oceans, on seasonal to centennial time scales. CLIVAR intends to explore predictability and how to improve predictions of climate variability and climate change using existing, re-analyzed, and new global observations, enhanced coupled ocean-atmosphere-land-ice models and paleoclimate records. A separate program announcement for CLIVAR will be issued later this year inviting proposals for CLIVAR Atlantic, CLIVAR Pacific (formerly GOALS), and CLIVAR PACS. Investigators interested in these program areas are encouraged to respond to this later announcement. For further information on the Atlantic, please contact James Todd, NOAA /Global Programs, 301/427–2089 ext. 139, Internet: todd@ogp.noaa.gov. For the Pacific and PACS efforts, please

contact, Michael Patterson, NOAA/Global Programs, 301–427–2089 ext. 102, Internet: patterson@ogp.noaa.gov.

(K) Economics and Human Dimensions of Climate Fluctuations

Please see Climate and Societal Interactions (CSI) above.

(L) GEWEX Continental-Scale International Project (GCIP)

GCIP supports research directed at closing regional water and energy budgets, developing coupled hydrologic-atmospheric models and interpreting hydroclimatic predictions for water resource managers within the Mississippi River Basin. For this call priority will be given to research in the Missouri River Basin. Details of the priority research needs are outlined in the CCIP Major Activities Plan for the Large Scale Area—Northwest. A later joint GCIP/PACS call dealing with monsoonal circulations and summer precipitation is under consideration and will be outlined in a subsequent information sheet. For more information, contact Rick Lawford, NOAA/Office of Global Programs, 301–427–2089 ext. 146, Internet: lawford@ogp.noaa.gov.

(M) Global Carbon Cycle (GCC)

GCC focuses on global observations, process-oriented field studies and modeling to improve our ability to predict the fate of anthropogenic carbon dioxide (CO2), and future CO2 concentrations. A separate program announcement for GCC may be issued later this year because an interagency joint announcement in this area is under consideration. For an information sheet containing further details and the current priorities, please contact Lisa Dilling, NOAA/Office of Global Programs, 301–427–2089 ext. 106, Internet: dilling@ogp.noaa.gov or see the web at: http://www.ogp.noaa.gov/MPE/GCC/GCCinfo.html.

(N) Global Ocean—Atmosphere—Land System (GOALS):

Please see Climate Variability and Predictability (CLIVAR) above.

(O) Pan-American Climate Studies (PACS)

Please see Climate Variability and Predictability (CLIVAR) above.

(P) Ocean-Atmosphere Carbon Exchange Study (OACES)

Please see Global Carbon Cycle (GCC) above.

(Q) Paleoclimatology

The NOAA Paleoclimatology Program will entertain proposals that support the joint IGBP PAGES/WCRP CLIVAR Research Initiative. This initiative is jointly supported by NOAA and the National Science Foundation (NSF) through the Earth System History (ESH) Program at NSF. All proposals must be submitted to the NSF/ESH Program by January 15 each year. For more information, please contact Heather Benway, NOAA/Global Programs, 301–427–2089 ext. 113, Internet: benway@ogp.noaa.gov; Jonathan Overpeck NOAA/National Geophysical Data Center, Boulder, CO; 303–497–6172, Internet: jto@mail.ngdc.noaa.gov; or Connie Sancetta, National Science Foundation (NSF) OCE Program, Arlington, VA; 703–306–1586, Internet: sancett@nsf.gov. or visit http://www.nsf.gov/pubs/1997/nsf9716/nsf97161.htm.

5. Eligibility

Extramural eligibility is not limited and is encouraged with the objective of developing a strong partnership with the academic community. Universities, non-profit organizations, for-profit organizations, State and local governments, and Indian Tribes, are included among entities eligible for funding under this announcement.

Funding for non-U.S. institutions is not available under this announcement.

6. Letters of Intent

Letters of Intent should provide a concise description of the proposed work and its relevance to the program element to which it is directed. (A) Investigators must identify the program element that is being pursued in the Letter of Intent. Failure to identify program element will result in return of application. Secondary program elements should also be identified, if appropriate. (B) Investigators must identify a project title in the Letter of Intent (LOI). (C) Letters should be no more than two pages in length and include the name and institution of principal investigator(s), a statement of the problem, brief summary of work to be completed, methodology to be used, and approximate cost of the project. (D) It is in the best interest of applicants and their institutions to submit letters of intent; however, it is not a requirement. (E) Facsimile and electronic mail are acceptable for letters of intent only. (F) Full proposals will be encouraged only for LOIs deemed relevant by Program Management.

7. Evaluation Criteria

Consideration for financial assistance will be given to those proposals that address one of the Program Elements listed and meet the following evaluation criteria:

(A) *Scientific Merit:* Intrinsic scientific value of the subject and the study proposed, including methodology and readiness.

(B) *Relevance:* Importance and relevance to the goals of the selected Program Element(s). (See Program Objectives above)

8. Selection Procedures

All proposals, including those submitted by NOAA employees, will be evaluated in accordance with the above evaluation criteria by (A) independent peer mail review, and/or (B) independent peer panel review, and a rating will be calculated based on these evaluations; both NOAA and non-NOAA experts in the field may be used in this process. The program officer will not be a voting member of an independent peer panel. The recommendations and evaluations of the panel members will be considered by the Program Officer in final selections. Proposals are usually awarded in the numerical order they are ranked based on the independent peer mail review or the independent peer panel review. However, the Program Manager will ascertain which proposals do not substantially duplicate other projects that are currently funded by NOAA or are approved for funding by other federal agencies, and fall within remaining funds available. As a result of this review, the Program Manager may decide to select an award out of order. The Program Manager will also determine the total duration of funding and the amount of funding for each selected proposal. Unsatisfactory performance by a recipient under prior Federal awards may result in an application not being considered for funding.

9. Proposal Submission

The following forms are required in each application, with original signatures on each federal form. Failure to comply will result in proposal application being returned.

(A) *Full Proposals:* (1) Proposals submitted to the NOAA Climate and Global Change Program must include the original and two unbound copies of the proposal. (2) Investigators are required to submit 3 copies of the proposal, however, the normal review process requires 20 copies. For an optimal review, investigators are encouraged to submit sufficient proposal copies, especially color or unusually sized (not 8.5″x11″), or otherwise unusual materials submitted as part of the proposal. Only three

original copies of the Federally-required forms are needed. (3) Proposals must be limited to 30 pages (numbered), including budget, investigators vitae, and all appendices, and should be limited to funding requests for one to three year duration. Appended information may not be used to circumvent the page length limit. Federally-mandated forms are not included within the page count. (4) Proposals should be sent to the NOAA Office of Global Programs at the above address. (5) Facsimile transmissions and electronic mail submission of full proposals will not be accepted.

(B) *Required Elements:* All proposals must include the following elements: (1) Signed title page: The title page should be signed by the Principal Investigator (PI) and the institutional representative and should clearly indicate which program element is being addressed. If more than one investigator is listed on the title page, please identify the lead investigator. The PI and institutional representative should be identified by full name, title, organization, telephone number and address. The total amount of Federal funds being requested should be listed for each budget period. (2) Abstract: An abstract must be included and should contain an introduction of the problem, rationale and a brief summary of work to be completed. The abstract should appear on a separate page, headed with the proposal title, institution(s), investigator(s), total proposed cost and budget period. (3) Results from prior research: The results of each prior research project (during the last 3 years) relevant to the proposed effort should be summarized in brief paragraphs. This section should not exceed two pages. (4) Statement of work: The proposed project must be completely described, including identification of the problem, scientific objectives, proposed methodology, relevance to the goal of the Climate and Global Change Program, and the program priorities listed above. Benefits of the proposed project to the general public and the scientific community should be discussed. The Statement of work, including references but excluding figures and other visual materials, must not exceed 15 pages of text. Investigators wishing to submit group proposals that exceed the 15 page limit should discuss this possibility with the appropriate Program Officer prior to submission. Proposals from 3 or more investigators may include a statement of work containing up to 15 pages of overall project description plus up to 5 additional pages for individual project descriptions. (5) Budget Justification; A brief description of the expenses listed on the budget and how they address the proposed work. Item justifications must include salaries, equipment, publications, supplies, tuition, travel, etc. (6) Budget: The proposal must include total and annual itemized budgets corresponding with the descriptions provided in the statement of work. Non-Federal Applicants must submit a Standard Form 424 (4–92) ''Application for Federal Assistance,'' including a detailed budget using the Standard Form 424a (4–92), ''Budget Information—Non-Construction Programs.'' Travel must be itemized to include destination, airfare, per diem, lodging and ground travel. The form is included in the standard NOAA application kit. (7) Vitae: Abbreviated curriculum vitae are sought with each proposal. Reference lists should be limited to all publications in the last three years with up to five other relevant papers. (8) Current and pending support: For each investigator, submit a list that includes project title, supporting agency with grant number, investigator months per year, dollar value and duration. Requested values should be listed for pending support.

(C) *Other requirements:* Applicants may obtain a standard NOAA application kit from the Program Office.

10. Primary Applicant Certification

All primary applicants must submit a completed Form CD–511, ''Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying''. Applicants are also hereby notified of the following:

(A) *Nonprocurement Debarment and Suspension:* Prospective participants (as defined at 15 CFR Part 26, section 105) are subject to 15 CFR Part 26, ''Nonprocurement Debarment and Suspension,'' and the related section of the certification form prescribed above applies;

(B) *Drug Free Workplace:* Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR Part 26, Subpart F, ''Governmentwide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies;

(C) *Anti-Lobbying:* Persons (as defined at 15 CFR Part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions'', and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected program, whichever is greater; and

(D) *Anti-Lobbying Disclosures:* Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities,'' as required Under 15 CFR part 28, appendix B.

11. Lower Tier Certifications

(A) Recipients must require applicants/bidders for subgrants, contracts, subcontracts, or lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure form SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

(B) Recipients and subrecipients are subject to all applicable Federal laws and Federal and Department of Commerce policies, regulations, and procedures applicable to Federal financial assistance awards.

(C) Preaward Activities—If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that may have been received, there is no obligation to the applicant on the part of Department of Commerce to cover pre-award costs.

(D) This program is subject to the requirements of OMB Circular No. A–110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations, and 63 CFR 47155, September 4, 1998, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, Other Non-Profit and Commercial Organizations, to State and Local Governments'', as applicable. Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

(E) All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been

convicted of, or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management, honesty, or financial integrity.

(F) A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

(G) No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either: (i) The delinquent account is paid in full, (ii) A negotiated repayment schedule is established and at least one payment is received, or (iii) Other arrangements satisfactory to the Department of Commerce are made.

(H) Buy American-Made Equipment or Products—Applicants are encouraged that any equipment or products authorized to be purchased with funding provided under this program be American-made to the maximum extent feasible.

(I) The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct cost dollar amount in the application, whichever is less.

(J) If an application is selected for funding, the Department of Commerce has no obligation to provide any additional future funding in connection with the award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the Department of Commerce.

(K) In accordance with Federal statutes and regulations, no person on grounds of race, color, age, sex, national origin or disability shall be excluded from participation in, denial benefits of, or be subjected to discrimination under any program or activity receiving financial assistance from the NOAA Climate and Global Change Program. The NOAA Climate and Global Change Program does not have direct TDD (Telephonic Device for the Deaf) capabilities, but can be reached through the State of Maryland supplied TDD contact number, 800–735–2258, between the hours of 8:00 a.m.–4:30 p.m.

(L) Notwithstanding any other provisions of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a current valid OMB control number.

12. Classification

The standard forms have been approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act under OMB approval number 0348–0043, 0348–0044, and 0348–0046. This notice has been determined to be not significant for purposes of Executive Order 12866.

Dated: July 2, 1999.

Louisa Koch,

Deputy Assistant Administrator.

[FR Doc. 99–17490 Filed 7–8–99; 8:45 am]

BILLING CODE 3510–KB–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 990624172–9172–01]

National Weather Service Modernization and Associated Restructuring

AGENCY: National Weather Service (NWS), NOAA, Commerce.

ACTION: Notice and opportunity for public comment.

SUMMARY: The NWS publishes notice of proposed certifications for the consolidation, automation, and closure of several Weather Service Offices (WSO) and Fire Weather Offices (FWO). Notice is given of a proposed certification for the automation and closure of the Los Angeles, Aviation WSO which will be automated at Federal Aviation Administration (FAA) Weather Observation Service Level A and have its services consolidated into the Los Angeles Forecast Office. Notice is also given of proposed certifications for the consolidation, automation, and closure of the Redding WSO and FWO which will be automated at FAA Weather Observation Service Level C and have its services consolidated into the Sacramento and Eureka, California; Reno, Nevada; and Medford, Oregon Forecast Offices. Finally, notice is given of a proposed certification for the closure of the Riverside, California FWO with services being provided by the San Diego and Los Angeles, California; Las Vegas, Nevada; and Phoenix, Arizona Forecast Offices.

DATES: Comments are requested to be mailed by September 7, 1999.

ADDRESSES: Requests for copies of proposed certification packages should be sent to Tom Beaver, Room 11426, 1325 East-West Highway, Silver Spring, Maryland 20910–3283, telephone 301–713–0300. All comments should be sent to Tom Beaver at the above address.

FOR FURTHER INFORMATION CONTACT: Tom Beaver at 301–713–0300 extension 141.

SUPPLEMENTARY INFORMATION: Pursuant to section 706 of Pub. L. 102–567, the Secretary of Commerce must certify that consolidation, automation, and/or closure of a NWS field office will not result in a degradation of service to the affected area of responsibility and must propose such certifications in the FR for 60-days public comment. Notice is given of a proposed certification for the automation and closure of the Los Angeles, Aviation WSO which will be automated at Federal Aviation Administration (FAA) Weather Observation Service Level A and have its services consolidated into the Los Angeles Forecast Office. Notice is also given of proposed certifications for the consolidation, automation, and closure of the Redding WSO and FWO which will be automated at FAA Weather Observation Service Level C and have its services consolidated into the Sacramento and Eureka, California; Reno, Nevada; and Medford, Oregon Forecast Offices. Finally, notice is given of a proposed certification for the closure of the Riverside, California FWO with services being provided by the San Diego and Los Angeles, California; Las Vegas, Nevada; and Phoenix, Arizona Forecast Offices. Documentation supporting these proposed certifications includes the following:

For all certifications:

(1) A draft memorandum by the meteorologist in charge recommending the certification, the final of which will be concurred with by the Regional Director and the Assistant Administrator of the NWS if appropriate, after consideration of public comments and completion of consultation with the Modernization Transition Committee (the Committee);

(2) A description of local weather characteristics and weather-related concerns which affect the weather services provided within the service area;

(3) A comparison of services provided within the service area to services to be provided after such action;

(4) A description of any recent or expected modernization of NWS operations which will enhance services in the service area;

(5) An identification of any area within the affected service area which would not receive coverage (at an elevation of 10,000 feet) by the Doppler weather surveillance radar network (WSR–88D); and

(6) A letter appointing a liaison officer for the action.

For consolidation certifications: evidence, based upon operational demonstration of modernized NWS operations, which was considered in reaching the conclusion that no degradation in service would result from such action, including the WSR–88D Radar Commissioning Report, User Confirmation of Services Report, and the Decommissioning Readiness Report.

For automation certification:

(1) Evidence, based upon operational demonstration of modernized NWS operations, which was considered in reaching the conclusion that no degradation in service will result from such action, including the Automated Surface Observing System (ASOS) commissioning report;

(2) A series of three letters between NWS and FAA confirming weather services will continue in full compliance with applicable flight aviation rules after ASOS commissioning;

(3) Surface Aviation Observation Transition Checklist documenting transfer of augmentation and back-up responsibility from NWS to FAA;

(4) Successful resolution of ASOS user confirmation of services complaints; and

(5) An in-place supplementary data program at the responsible forecast office.

For closure certifications:

(1) Where appropriate, warning and forecast verification statistics for pre-modernized and modernized services utilized in determining services have not been degraded; and

(2) An Air Safety Appraisal for offices which are located on an airport.

For the proposed certifications covered by this notice, there is no report of the Committee. The Committee has the option to submit a report in accordance with sections 706(b)(6) and 707(c) of Pub. L. 102–567. In December 1995, the Committee decided to forego the optional consultation on proposed certifications. Instead, the Committee decided to review certifications only after the public comment period closes so that its consultation includes the benefit of all public comments received. This notice does not publish the complete certification packages because they are too voluminous. Copies of the complete certification packages and supporting documentation can be obtained from the contact listed above.

Once all public comments have been received and considered, the NWS will complete consultation with the Committee and determine whether to proceed with the final certification. If a decision to certify is made, the Secretary of Commerce must publish final certifications in the FR and transmit the certifications to the appropriate congressional committees prior to consolidating, automating, and closing the office.

John J. Kelly, Jr.,

Assistant Administrator for Weather Services.

[FR Doc. 99–17408 Filed 7–8–99; 8:45 am]

BILLING CODE 3510–KE–M

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement (NAFTA), Article 1904

Binational Panel Reviews; Decision of Binational Panel

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of decision of Binational Panel.

SUMMARY: On June 18, 1999 the Binational Panel issued its decision in the matter of Gray Portland Cement and Clinker from Mexico, Secretariat File No. USA–97–1904–01.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686). The panel review in this matter was conducted in accordance with these Rules.

Background Information:

On May 6, 1997, Cemex, S.A. de C.V. (''CEMEX'') and Cementos de Chihuahua, S.A. de C.V. (''CDC'') filed a First Request for Panel Review with the U.S. Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the Final Results of Antidumping Duty Administrative Review made by the International Trade Administration respecting Gray Portland Cement and Clinker from Mexico. This determination was published in the **Federal Register** on April 9, 1997 (62 FR 27238–39). The request was assigned File No. USA–97–1904–01.

Panel Decision

The Panel affirmed in part and remanded in part with one dissenting opinion. The Panel determined that by stipulation between CEMEX and the Department announced at the hearing on December 15, 1998, the Panel remanded the final results of the Fifth Review to the Department for the purpose of correcting the ministerial errors identified by CEMEX in its May 9, 1997 letter to the Department. On remand, the Department shall correct the errors identified by CEMEX in its May 9, 1997 letter to the Department identified as Number 1, A and B, and Number 2. CEMEX has agreed to abandon its claim for ministerial error identified in its May 9, 1997 letter to the Department as Number 3. Pursuant to the stipulation, once the ministerial errors are corrected, the Department shall publish in the **Federal Register** notice of the corrections and then instruct the U.S. Customs Service to give effect to the ???

The Panel ordered the Department to issue a determination on remand consistent with the instructions and findings set forth in the Panel's decision. The determination on remand shall be issued within ninety (90) days of the date of the Order (not later than September 16, 1999).

Dated: June 25, 1999.

Caratina L. Alston,

U.S. Secretary, NAFTA Secretariat.

[FR Doc. 99–17474 Filed 7–8–99; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Special Panel on Military Operations on Vieques

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: The Panel will conduct a public meeting to receive and discuss information associated with military operations at Vieques, Puerto Rico and in the adjoining ocean range complex. The panel will receive information from the Office of the Governor of Puerto Rico regarding the recently released report by the Governor's Vieques Commission and from Department of the Navy representatives on the Vieques Study directed by the Secretary of the Navy. Because of the short timeframe of the panel's review, and the accelerated pace of the meeting schedule, this announcement must be made less than 15 days before the meeting will take place.

DATES: July 9, 1999, 9 a.m. to 12:00 p.m..

ADDRESSES: 1401 Wilson Boulevard, Room 400, Arlington, VA 22209.

FOR FURTHER INFORMATION CONTACT: Contact Dr. Hector Nevarez, the Designated Federal Officer, 1401 Wilson Boulevard, Suite 400, Arlington, VA 22209, phone (703) 696–9456, fax (703) 696–9482, or via Email at *Hector.Nevarez@osd.pentagon.mil.* Written comments must be sent to Dr. Nevarez and received no later than Friday, July 9, 1999. Copies of the draft meeting agenda can be obtained by contacting Debra Crnkovic at (703) 695–5493.

SUPPLEMENTARY INFORMATION: Seating in the panel meeting room is limited, and spaces will be reserved only for panel members and invited representatives. The remaining seating is available on a first-come, first-served basis. No teleconference lines will be available. Written comments for the record may be mailed to the Panel and will be distributed to the Panel members after the adjournment of the July 9, 1999 meeting.

Dated: July 2, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–17504 Filed 7–6–99; 4:17 pm]

BILLING CODE 5000–10–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Notice of Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: July 12–22, 1999.

Time of Meeting: 0800–1700 (daily).

Place: Irvine, CA—Arnold & Mabel Beckman Center.

Agenda: The Army Science Board's (ASB) 1999 Summer Studies on ''Full-Spectrum Protection for 2025-Era Ground Platforms'' and ''Enabling Rapid and Decisive Strategic Maneuver for the Army After 2010'' will meet for the purpose of discussions, report writing and finalizing briefings for their respective sponsors. These meetings will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these meetings. For further information, please contact our office at (703) 604–7479.

Wayne Joyner,

Program Support Manager, Army Science Board.

[FR Doc. 99–17473 Filed 7–8–99; 8:45 am]

BILLING CODE 3710–08–M

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 August 9, 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, DC 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV.

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.

Dated: July 2, 1999.

William E. Burrow,

Acting Leader, Information Management Group, Office of the Chief Information Officer.

Office of the Under Secretary

Type of Review: New.

Title: Phase 1 of the National Evaluation of Talent Search and Educational Opportunity Centers.

Frequency: One time.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 445

Burden Hours: 301

Abstract: The purpose of this evaluation is to provide updated information on the operation and implementation of Talent Search and Educational Opportunity Centers and to examine the feasibility of conducting a study of Talent Search Outcomes and impact on students. The Talent Search Program has the purpose of increasing the number of youth from disadvantaged backgrounds who graduate from high school and enroll in postsecondary institutions. Educational Opportunity Centers (EOCs) have goals and services similar to Talent Search but with a focus on serving an adult population that has left school prior to completion. Clearance is requested for two data collection efforts: (1) A census-survey of all Talent Search Coordinators/Directors, and (2) a census-survey of all EOC Coordinators/Directors.

Written comments and requests for copies of this information collection should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronically mailed to the internet address

*vivian__*reese@ed.gov or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Jacqueline Montague at 202–708–5359 or electronically mail her at internet address Jackie__Montague@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Office of Student Financial Assistance Programs

Type of Review: Extension.
Title: Federal Stafford Loan (Subsidized and Unsubsidized) Program Master Promissory Note.
Frequency: On occasion.
Affected Public: Individuals or households; Businesses or other for-profit; Not-for-profit institutions.
Reporting and Recordkeeping Burden:
Responses: 1,400,000
Burden Hours: 1,400,000

Abstract: This revised promissory note is the means by which a Federal Stafford Program Loan borrower promises to repay his or her loan.

Requests for copies of this information collection should be addressed to Vivian Reese, U.S. Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronically mailed to the Internet address *Vivian__*Reese@ed.gov, or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Joseph Schubart at 202–708–9266 or electronically mail him at joe^{x}schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Office of the Under Secretary

Type of Review: New.
Title: Compact for Reading Evaluation.
Frequency: Semi-annually.
Affected Public: Individuals or households; State, local or Tribal Gov't, SEAs or LEAs.
Reporting and Recordkeeping Hour Burden:
Responses: 26,624
Burden Hours: 30,123

Abstract: The Compact for Reading is a written agreement between families, teachers, students, and principals describing how each partner will work to improve the reading skills of students in kindergarten through third grade. At each grade level, a set of 100 home learning activities is offered to improve reading skills. These activities focus on family members as home learning partners. Research shows that even though the requirement for Title I compacts is several years old, many Title I schools still do not have compacts in place, or do not use them to full advantage. The Compact for Reading evaluation will attempt to show whether implementing this type of compact will enhance student learning and therefore should be considered for adoption by other Title I schools.

Requests for copies of this information collection should be addressed to Vivian Reese, U.S. 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 *Vivian__*Reese@ed.gov, or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Jacqueline Montague at 202–708–5359 or electronically mail her at Jackie__Montague@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 99–17414 Filed 7–8–99; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

President's Advisory Board on Tribal Colleges and Universities; Meeting

AGENCY: President's Advisory Board on Tribal Colleges and Universities.

ACTION: Notice of open meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the first meeting of the President's Advisory Board on Tribal Colleges and Universities and is intended to notify the general public of their opportunity to attend. This notice also describes the functions of the Board. Notice of the Board's meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATE AND TIME: July 20, 1999, from 9 a.m. to 5:30 p.m.

LOCATION: The Clark Room, Holiday Inn Capitol, 550 C Street, SW., Washington, D.C. 20024.

FOR FURTHER INFORMATION, CONTACT: Carrie Billy, Executive Director, President's Advisory Board on Tribal Colleges and Universities, U.S. Department of Education, 4050 MES, 330 C Street, SW, Washington, D.C. 20202–7594, Telephone: 202–260.5714.

SUPPLEMENTARY INFORMATION: The Board is established by Executive Order 13021 (October 19, 1996) to provide advice regarding the progress made by federal agencies toward fulfilling the purposes and objective of the order. The Board shall also provide recommendations to the President and the Secretary of Education at least annually on ways Tribal Colleges can:

(1) Use long-term development, endowment building, and master planning to strengthen institutional viability;

(2) Use the federal and private sector to improve financial management and security, obtain private sector funding support, and expand and complement federal education initiatives;

(3) Develop institutional capacity through the use of new and emerging technologies offered by the federal and private sectors;

(4) Enhance physical infrastructure to facilitate more efficient operation and effective recruitment and retention of students and faculty; and

(5) Help achieve National Education Goals and meet other high standards of education accomplishment.

The meeting agenda will include: orientation of the new Presidentially appointed members; discussion, including recommendations, on assisting the Tribal Colleges in addressing existing needs; and discussion of the federal government's progress in implementing Executive Order 13021.

The general public is encouraged to attend. However, space is limited and is available on a first come, first served basis.

A summary of the activities of the meeting and other related materials, which are informative to the public and consistent with the policy of section 5 U.S.C. 552b, will be available to the public within 14 days after the meeting. Records are kept of all Board proceedings and are available for public inspection at White House Initiative on Tribal Colleges & Universities, United States Department of Education, 4050 MES, 330 C Street, SW, Washington, D.C. from 9:00 a.m. to 5:30 p.m.

Dated: July 2, 1999.

Robert D. Muller,

Acting Assistant Secretary, Office of Vocational and Adult Education.

[FR Doc 99–17423 Filed 7–8–99; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Los Alamos

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Los Alamos. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of the meetings be announced in the **Federal Register**.

DATES: Wednesday, July 28, 1999, 6:00 p.m.–9:00 p.m.

ADDRESSES: Holiday Inn, 1005 Paseo de Pueblo Sur, Taos, NM.

FOR FURTHER INFORMATION CONTACT: Ann DuBois, Northern New Mexico Citizens' Advisory Board, 528 35th Street, Los Alamos, NM 87544. Phone: 505–665–5048; FAX 505–665–4872.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. Public Comment
2. Committee Reports
3. Other Board business will be conducted as necessary.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ann DuBois at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at the beginning of the meeting.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 528 35th Street, Los Alamos, NM 87544. Hours of operation for the Public Reading Room are 9:00 am and 4:00 pm on Monday through Friday. Minutes will also be made available by writing or calling Ann DuBois at the Board's office address or telephone number listed above.

Issued at Washington, DC on July 6, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–17498 Filed 7–8–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site Specific Advisory Board, Savannah River

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site Specific Advisory Board (EM SSAB), Savannah River. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of the meetings be announced in the Federal Register.

DATES: Monday, July 26, 1999: 10:00 a.m.–9:00 p.m., Tuesday, July 27, 1999: 8:30 a.m.–4:00 p.m.

ADDRESS: All meetings will be held at: Adam's Mark Hotel, 1200 Hampton Street, Columbia, SC 29201.

FOR FURTHER INFORMATION CONTACT: Gerri Flemming, Office of Environmental Quality, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, SC 29802 (803) 725–5374.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management and related activities.

Tentative Agenda

Monday, July 26, 1999

10:00 a.m.–12:00 p.m. Administrative Subcommittee
3:30 p.m.–4:30 p.m. Executive Committee
5:00 p.m.–6:00 p.m. Outreach Subcommittee
6:30 p.m.–7:00 p.m. Public Comment Session
7:00 p.m.–9:00 p.m. Issue-Based Subcommittee Meetings
9:00 p.m. Adjourn

Tuesday, July 27, 1999

8:30 a.m.
Approval of Minutes, Agency Updates (approximately 15 minutes)
Public Comment Session (5-minute rule) (approximately 10 minutes)
Facilitator Update (approximately 15 minutes)
Outreach Subcommittee Report (SRS CAB Video) (approximately 1 hour)
Fish Fact Sheet Discussion (approximately 20 minutes)
Nuclear Materials Management Subcommittee Report (approximately 2 hours)
—Yucca Mountain Presentations
12:00 p.m. Lunch Break
ER&WM Subcommittee Report continued (approximately 1¾ hours)
Risk Management and Future Use Subcommittee (approximately 30 minutes)
Administrative Subcommittee Report (approximately 20 minutes)
Public Comments (approximately 10 minutes)
4:00 p.m. Adjourn

If needed, time will be allotted after public comments for items added to the agenda, and administrative details. A final agenda will be available at the meeting, Monday, July 26, 1999.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gerri Flemming's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday—Friday except Federal holidays. Minutes will also be available by writing to Gerri Flemming, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29802, or by calling (803)–725–5374.

Issued at Washington, DC on July 6, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–17499 Filed 7–8–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL99–74–000]

Southwestern Public Service Company v. El Paso Electric Company; Notice of Filing

July 6, 1999.

Take notice that Southwestern Public Service Company (SPS) submitted for filing on July 2, 1999, a complaint against El Paso Electric Company (EPE) seeking an order from the Commission by July 15, 1999 requiring EPE to provide firm transmission service to SPS. The complaint also requested fast track processing.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before July 12, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This fling may also be viewed on Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Answers to complaints should also be filed on or before July 12, 1999.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–17562 Filed 7–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–2665–000]

Wisconsin Electric Power Company; Notice of Filing

June 30, 1999.

Take notice that on June 25, 1999, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing a response to the June 3, 1999, deficiency letter in the above captioned docket. The response constitutes an amendment to the filing submitted by Wisconsin Electric on April 28, 1999.

Copies of the filing have been served on customers under the market-based rate tariff, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington DC 20426, in accordance with Rules 211 and 214 of the Commision's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before July 15, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–17442 Filed 7–8–99; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–1984–001, et al.]

ALLIANT ENERGY CORPORATE SERVICES, INC., ET AL.; ELECTRIC RATE AND CORPORATE REGULATION FILINGS

July 2, 1999.

Take notice that the following filings have been made with the Commission:

1. Alliant Energy Corporate Services, Inc.

[Docket No. ER99–1984–001]

Take notice that on June 29, 1999, Alliant Energy Corporate Services, Inc. submitted an amendment on behalf of IES Utilities Inc. (IES), Interstate Power Company (IPC) and Wisconsin Power and Light Company (WPL), in response to the Commission's order dated May 12, 1999, in North American Electric Reliability Council, Docket No. EL98–52–000 (NERC Order). Alliant Energy has revised the terminology ''firm load curtailment'' to ''firm transmission curtailment''. Alliant Energy also has clarified that the implementation of MAIN Voluntary Interim Regional Redispatch Plan involves the use of the NERC Market Redispatch Pilot Project Summer 1999.

A copy of this filing has been served upon the Illinois Commerce Commission, the Minnesota Public Utilities Commission, the Iowa Department of Commerce, the Public Service Commission of Wisconsin, and all parties listed on the service list as compiled by the Secretary in this proceeding.

Comment date: July 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. California Power Exchange Corporation

[Docket Nos. EC96–19–050 and ER96–1663–052]

Take notice that on June 29, 1999, the California Power Exchange Corporation (PX) filed proposed tariff sheets in compliance with the Commission's June 1, 1999 order in the above proceeding.

Comment date: July 29, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. PP&L Resources, Inc., PP&L, Inc., Sunbury Holdings, LLC, and Sunbury Generation, LLC

[Docket Nos. EC99–91–000 and ER99–3446–000]

Take notice that on June 30, 1999, PP&L Resources, Inc., PP&L, Inc., Sunbury Holdings, LLC and Sunbury Generation, LLC (collectively the Applicants) filed with the Commission a Joint Application for Authorization to Sell Jurisdictional Facilities and for Approval of Interconnection Agreement.

The Applicants have served a copy of the foregoing on the Pennsylvania Public Utility Commission.

Comment date: July 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Central Hudson Gas & Electric Corporation

[Docket No. ER99–3380–000]

Take notice that on June 28, 1999, Central Hudson Gas & Electric Corporation (CHG&E), tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations in 18 CFR a Service Agreement between CHG&E and DukeSolutions, Inc. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Open Access Schedule, Original Volume No. 1 (Transmission Tariff) filed in compliance with the Commission's Order No. 888 in Docket No. RM95–8–000 and RM94–7–001 and amended in compliance with Commission Order dated May 28, 1997.

CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR Section 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: July 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Central Hudson Gas & Electric Corporation

[Docket No. ER99–3381–000]

Take notice that on June 28, 1999, Central Hudson Gas & Electric Corporation (CHG&E), tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations, a Service Agreement between CHG&E and Cargill-Alliant, LLC. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Open Access Schedule, Original Volume No. 1 (Transmission Tariff), filed in compliance with the Commission's Order No. 888 in Docket No. RM95–8–000 and RM94–7–001 and amended in compliance with Commission Order dated May 28, 1997.

CHG&E also has requested a waiver of the 60-day notice provision pursuant to 18 CFR Section 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: July 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Central Hudson Gas & Electric Corporation

[Docket No. ER99–3382–000]

Take notice that on June 28, 1999, tendered Central Hudson Gas & Electric Corporation (CHG&E), for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations, a Service Agreement between CHG&E and Avista Energy Inc. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Open Access Schedule, Original Volume No. 1 (Transmission Tariff), filed in compliance with the Commission's Order No. 888 in Docket No. RM95–8–000 and RM94–7–001 and amended in compliance with Commission Order dated May 28, 1997.

CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR Section 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: July 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Central Hudson Gas & Electric Corporation

[Docket No. ER99–3383–000]

Take notice that on June 28, 1999, Central Hudson Gas & Electric Corporation (CHG&E), tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations, a Service Agreement between CHG&E and KeySpan-Ravenswood, Inc. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Open Access Schedule, Original Volume No.1 (Transmission Tariff) filed in compliance with the Commission's Order No. 888 in Docket No. RM95–8–000 and RM94–7–001 and amended in compliance with Commission Order dated May 28, 1997.

CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR Section 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: July 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Montaup Electric Company

[Docket No. ER99–3384–000]

Take notice that on June 28, 1999, Montaup Electric Company (Montaup), tendered for filing an executed service agreement under Montaup's market-based power sales tariff, FERC Electric Tariff, Original Volume No. 8, between Montaup and Constellation Power Source, Inc.

Montaup requests a waiver of the sixty-day notice requirement so that the service agreement may become effective as of June 1, 1999.

Comment date: July 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. The Detroit Edison Company

[Docket No. ER99–3386–000]

Take notice that on June 28, 1999, The Detroit Edison Company (Detroit Edison) tendered for filing Service Agreements for wholesale power sales transactions (the Service Agreements) under Detroit Edison's Wholesale Power Sales Tariff (WPS–1), FERC Electric Tariff No. 4 (the WPS–1 Tariff), and Wholesale Power Sales Tariff (WPS–2), FERC Electric Tariff No. 3 (the WPS–2 Tariff).

Comment date: July 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Avista Corp.

[Docket No. ER99–3391–000]

Take notice that on June 28, 1999, Avista Corp. (AVA), tendered for filing with the Federal Energy Regulatory Commission an executed Service Agreement for Short-Term Firm and Non-Firm Point-To-Point Transmission Service under AVA's Open Access Transmission Tariff—FERC Electric Tariff, Volume No. 8 with Los Angeles Department of Water and Power.

AVA requests the Service Agreement be given the respective effective date of June 4, 1999.

Comment date: July 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. PJM Interconnection, L.L.C.

[Docket No. ER99–3392–000]

Take notice that on June 28, 1999, PJM Interconnection, L.L.C. (PJM), tendered for filing 3 executed service agreements with PP&L, Inc., Baltimore Gas and Electric Company and Public Service Electric and Gas Company for point-to-point transmission service under the PJM Open Access Transmission Tariff.

Copies of this filing were served upon the parties to the service agreements.

Comment date: July 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. PJM Interconnection, L.L.C.

[Docket No. ER99–3393–000]

Take notice that on June 28, 1999, PJM Interconnection, L.L.C. (PJM), tendered for filing an executed Service Agreement for Network Integration Transmission Service between PJM and PECO Energy Company to enable PECO Energy Company to sell electricity to the New Jersey Boroughs of Butler, Lavallette, Madison, Pemberton and Seaside Heights.

PJM requests a waiver of the Commission's notice requirements and an effective dated of June 1, 1999.

A copy of the filing was served upon PECO Energy Company, Jersey Central Power & Light Company, and the Pennsylvania Public Utility Commission.

Comment date: July 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Niagara Mohawk Power Corporation

[Docket No. ER99–3394–000]

Take notice that on June 28, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission

Service Agreement between Niagara Mohawk and NRG Power Marketing, Inc., (NRG). This Transmission Service Agreement specifies that NRG has signed on to and has agreed to the terms and conditions of Niagara Mohawk's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow Niagara Mohawk and NRG to enter into separately scheduled transactions under which Niagara Mohawk will provide non-firm transmission service for NRG as the parties may mutually agree.

Niagara Mohawk requests an effective date of June 17, 1999. Niagara Mohawk has requested waiver of the notice requirements for good cause shown.

Niagara Mohawk has served copies of the filing upon the New York State Public Service Commission and NRG.

Comment date: July 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Niagara Mohawk Power Corporation

[Docket No. ER99–3395–000]

Take notice that on June 28, 1999, Niagara Mohawk (Niagara Mohawk), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between Niagara Mohawk and NRG Power Marketing, Inc. (NRG). This Transmission Service Agreement specifies that NRG has signed on to and has agreed to the terms and conditions of Niagara Mohawk's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow Niagara Mohawk and NRG to enter into separately scheduled transactions under which Niagara Mohawk will provide firm transmission service for NRG as the parties may mutually agree.

Niagara Mohawk requests an effective date of June 17, 1999. Niagara Mohawk has requested waiver of the notice requirements for good cause shown.

Niagara Mohawk has served copies of the filing upon the New York State Public Service Commission and NRG.

Comment date: July 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Southern Energy NY–GEN, L.L.C.

[Docket No. ER99–3407–000]

Take notice that on June 29, 1999, Southern Energy NY–GEN, L.L.C. (July 2, 1999 Southern NY–GEN), tendered for filing the following agreements as a long-term service agreement under its Market Rate Tariff accepted by the Commission in the Docket No. ER99–2045–000:

1. Western Load Pocket Call Option Agreement Between Orange and Rockland Utilities, Inc., and Southern Energy NY–GEN, L.L.C., dated November 24, 1998, as amended, June 14, 1999.

Comment date: July 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Avista Corp.

[Docket No. ER99–3408–000]

Take notice that on June 29, 1999, Avista Corp., tendered for filing, pursuant to Section 35.12 of the Commission's Regulations, 18 CFR 35.12, an executed service agreement with Cogentrix Energy Power Marketing, Inc., for Dynamic Capacity and Energy Service at cost-based rates under Avista Corp.'s FERC Electric Tariff, Original Volume No. 10.

Avista Corp. requests that the Commission waive its prior notice requirement, pursuant to Section 35.11 of the Commission's regulations, 18 CFR 35.11, and accept the service agreement for filing effective June 1, 1999.

Comment date: July 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Puget Sound Energy, Inc.

[Docket No. ER99–3409–000]

Take notice that on June 29, 1999, Puget Sound Energy, Inc., as Transmission Provider, tendered for filing a Service Agreement for Firm Point-To-Point Transmission Service (Firm-To-Point Service Agreement), and a Service Agreement for Non-Firm Point-To-Point Service (Non-Firm Point-To-Point Service Agreement) with Seattle City Light (SCL), as Transmission Customer.

A copy of the filing was served upon SCL.

Comment date: July 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. The Montana Power Company

[Docket No. ER99–3474–000]

Take notice that on June 28, 1999, The Montana Power Company (Montana) tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13 an unexecuted Firm and executed Non-Firm Point-To-Point Transmission Service Agreements with Arizona Public Service under Montana's FERC Electric Tariff, Fourth Revised Volume No. 5 (Open Access Transmission Tariff).

A copy of the filing was served upon Arizona Public Service.

Comment date: July 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. El Paso Electric Company

[Docket No. OA96–200–007]

Take notice that on June 25, 1999, El Paso Electric Company (EPE or Company) tendered for filing with the Federal Energy Regulatory Commission, modifications to its open access transmission tariff pursuant to FERC Opinion No. 437 issued May 26, 1999.

Comment date: July 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs:

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17441 Filed 7–8–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG99–173–000, et al.]

CH Resources, Inc., et al.; Electric Rate and Corporate Regulation Filings

June 29, 1999.

Take notice that the following filings have been made with the Commission:

1. CH Resources, Inc.

[Docket No. EG99–173–000]

Take notice that on June 24, 1999, CH Resources, Inc. (Resources) filed an Application for Determination of Exempt Wholesale Generator Status pursuant to Section 32(a)(1) of the Public Utility Holding Company Act of 1935, all as more fully explained in the Application.

Comment date: July 20, 1999, in accordance with Standard Paragraph E

at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Public Service Electric and Gas Company, PSEG Fossil LLC, PSEG Nuclear LLC and PSEG Energy Resources & Trade LLC

[Docket Nos. EC99–79–000 and ER99–3151–000]

Take notice that on June 24, 1999, Public Service Electric and Gas Company (PSE&G), PSEG Fossil LLC, PSEC Nuclear LLC, and PSEC Energy Resources & Trade LLC filed a supplement to their application. The supplement consisted of a copy of the application PSE&G had previously filed with the Nuclear Regulatory Commission in connection with the transfer of its interest in certain nuclear generating facilities.

Comment date: July 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Victory Garden Power Partners I LLC

[Docket No. EG99–174–000]

Take notice that on June 24, 1999, Victory Garden Power Partners I LLC, 13000 Jameson Road, Tehachapi, California 93561, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Victory Garden Power Partners I LLC is constructing a wind turbine generation facility with nine wind turbines, each with a nameplate capacity of 750 kW, resulting in an aggregate peak generating capacity of approximately 6.75 MW.

Comment date: July 20, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Vitol Gas & Electric LLC and Energy Resource Management Corporation

[Docket No. ER94–155–025 and Docket No. ER96–358–012

Take notice that on June 18, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the web at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

5. Gulfstream Energy, LLC

[Docket No. ER94–1597–016]

Take notice that on June 22, 1999, the above-mentioned power marketer filed a quarterly report with the Commission in the above-mentioned proceeding for information only. This filing is available for public inspection and copying in the Public Reference Room or on the web at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

6. Commonwealth Energy Corporation

[Docket No. ER97–4253–005]

Take notice that on June 21, 1999, the above-mentioned power marketer filed a quarterly report with the Commission in the above-mentioned proceeding for information only. This filing is available for public inspection and copying in the Public Reference Room or on the web at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

7. California Independent System Operator Corporation

[Docket No. ER99–2730–001]

Take notice that on June 24, 1999, the California Independent System Operator Corporation (ISO), tendered for filing as part of its Electric Service Tariff, Volume No. I, the revised tariff sheet identified below:

First Revised Sheet No. 375

The ISO states that the revision to this sheet deletes a confusing sentence and was submitted to comply with the Commission's June 17, 1999 Order, 87 FERC ¶61,304 (1999), in the above-referenced docket.

The ISO requests an effective date of July 1, 1999.

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: July 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Green Mountain Power Corporation

[Docket No. ER99–3340–000]

Take notice that on June 24, 1999, Green Mountain Power Corporation (GMP), tendered for filing a service agreement for Vermont Electric Cooperative, Inc., to take service under its Network Integration Transmission Service tariff.

Copies of this filing have been served on each of the affected parties, the Vermont Public Service Board and the Vermont Department of Public Service.

Comment date: July 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Wisconsin Electric Power Company

[Docket No. ER99–3341–000]

Take notice that on June 24, 1999, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing a short term firm Transmission Service Agreement between itself and Illinova Energy Partners Inc., (Illinova). The Transmission Service Agreements allow Illinova to receive firm transmission service under Wisconsin Energy Corporation Operating Companies' FERC Electric Tariff, Volume No. 1.

Wisconsin Electric requests an effective date coincident with its filing and waiver of the Commission's notice requirements in order to allow for economic transactions as they appear.

Copies of the filing have been served on Illinova, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: July 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Alliant Energy Corporate Services, Inc.

[Docket No. ER99–3342–000]

Take notice that on June 24, 1999, Alliant Energy Corporate Services, Inc., tendered for filing two executed service agreements for transmission service. One agreement is for short-term firm point-to-point transmission service, the other agreement is for non-firm point-to-point transmission service. The agreements are signed by Basin Electric Power Cooperative and Alliant Energy Corporate Services, Inc.

Alliant Energy Corporate Services, Inc., requests an effective date of June 15, 1999, and accordingly, seeks waiver of the Commission's notice requirements.

A copy of this filing has been served upon the Illinois Commerce Commission, the Minnesota Public Utilities Commission, the Iowa Department of Commerce, and the Public Service Commission of Wisconsin.

Comment date: July 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Arizona Public Service Company

[Docket No. ER99–3343–000]

Take notice that on June 24, 1999, Arizona Public Service Company (APS), tendered for filing a Service Agreements under APS' FERC Electric Tariff, Original Volume No. 4, for service to the Utah Municipal Power Agency (Utah).

A copy of this filing has been served on the Arizona Corporation Commission and Utah.

Comment date: July 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. EMC Gas Transmission Company

[Docket No. ER99–3344–000]

Take notice that on June 24, 1999, pursuant to Section 35.15 of the Commission's Regulations, EMC Gas Transmission Company submitted for filing a notice of termination of its Rate Schedule FERC No. 1.

Comment date: July 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Energy Dynamics, Inc.

[Docket No. ER99–3345–000]

Take notice that on June 24, 1999, pursuant to Section 35.15 of the Regulations, Energy Dynamics, Inc., tendered for filing a notice of termination of its Rate Schedule FERC No. 1.

Comment date: July 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Public Service Company of New Mexico

[Docket No. ER99–3346–000]

Take notice that on June 24, 1999, Public Service Company of New Mexico (PNM), tendered for filing a mutual netting/close-out agreement between PNM and Mieco Inc. (Mieco).

PNM requested waiver of the Commission's notice requirement so that service under the PNM/Mieco netting agreement may be effective as of June 7, 1999.

Copies of the filing were served on Mieco and the New Mexico Public Regulation Commission.

Comment date: July 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Public Service Company of New Mexico

[Docket No. ER99–3347–000]

Take notice that June 24, 1999, Public Service Company of New Mexico (PNM), tendered for filing on a netting agreement between PNM and Williams Energy Marketing & Trading Company (Williams).

PNM requested waiver of the Commission's notice requirement so that service under the PNM/Williams netting agreement may be effective as of May 1, 1999.

Copies of the filing were served on Williams and the New Mexico Public Regulation Commission.

Comment date: July 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Public Service Company of New Mexico

[Docket No. ER99–3348–000]

Take notice that on June 24, 1999, Public Service Company of New Mexico (PNM), tendered for filing a mutual netting/close-out agreement between PNM and Cinergy Services, Inc. (Cinergy).

PNM requested waiver of the Commission's notice requirement so that service under the PNM/Cinergy netting agreement may be effective as of June 1, 1999.

Copies of the filing were served on Cinergy and the New Mexico Public Regulation Commission.

Comment date: July 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. MidAmerican Energy Company

[Docket No. ER99–3349–000]

Take notice that on June 24, 1999 MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50309, filed with the Commission a Firm Transmission Service Agreement with Southwestern Public Service Company (Southwestern), dated June 8, 1999, and a Non-Firm Transmission Service Agreement with Southwestern, dated June 8, 1999, entered into pursuant to MidAmerican's Open Access Transmission Tariff.

MidAmerican requests an effective date of June 8, 1999, for the Agreements with Southwestern, and accordingly seeks a waiver of the Commission's notice requirement. MidAmerican has served a copy of the filing on Southwestern, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: July 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Puget Sound Energy, Inc.

[Docket No. ER99–3350–000]

Take notice that on June 24, 1999, Puget Sound Energy, Inc. (PSE), tendered for filing a Service Agreement under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with Arizona Public Service Co., (APS).

A copy of the filing was served upon APS.

Comment date: July 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Puget Sound Energy, Inc.

[Docket No. ER99–3351–000]

Take notice that on June 24, 1999, Puget Sound Energy, Inc. (PSE), tendered for filing a Service Agreement under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with Bonneville Power Administration (BPA).

A copy of the filing was served upon BPA.

Comment date: July 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Puget Sound Energy, Inc.

[Docket No. ER99–3352–000]

Take notice that on June 24, 1999, Puget Sound Energy, Inc. (PSE), tendered for filing a Service Agreement under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with Benton Public Utility District No. 1 of Benton County (Benton PUD).

A copy of the filing was served upon Benton PUD.

Comment date: July 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. Puget Sound Energy, Inc.

[Docket No. ER99–3353–000]

Take notice that on June 24, 1999, Puget Sound Energy, Inc. (PSE), tendered for filing a Service Agreement under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with Avista Energy, Inc., (Avista).

A copy of the filing was served upon Avista.

Comment date: July 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Puget Sound Energy, Inc.

[Docket No. ER99–3354–000]

Take notice that on June 24, 1999, Puget Sound Energy, Inc. (PSE), tendered for filing a Service Agreement under the provisions of PSE's market-based rates tariff, FERC Electric Tariff, First Revised Volume No. 8, with Aquila Power Corporation (Aquila).

A copy of the filing was served upon Aquila.

Comment date: July 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. The Dayton Power and Light Company

[Docket No. ER99–3355–000]

Take notice that on June 24, 1999, The Dayton Power and Light Company (Dayton), tendered for filing an

unexecuted service agreement establishing Indianapolis Power & Light as a customer under Dayton's Market-Based Sales Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements.

Copies of this filing were served upon Indianapolis Power and Light and the Public Utilities Commission of Ohio.

Comment date: July 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17420 Filed 7–8–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER95–784–016, et al.]

J. Anthony & Associates Ltd, et al.; Electric Rate and Corporate Regulation Filings

July 1, 1999.

Take notice that the following filings have been made with the Commission:

1. J. Anthony & Associates Ltd.

[Docket No. ER95–784–016]

Take notice that on June 28, 1999, the above-mentioned power marketer filed a quarterly report with the Commission in the above-mentioned proceeding for information only. This filing is available for public inspection and copying in the Public Reference Room or on the web at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

2. Avista Corporation

[Docket No. ER99–55–002]

Take notice that on June 28, 1999, Avista Corporation (Avista Corp.), made its filing in compliance with the Commission's Order of May 27, 1999, in the above-referenced docket.

Comment date: July 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Southwest Power Pool, Inc.

[Docket No. ER99–2257–001]

Take notice that on June 28, 1999, Southwest Power Pool, Inc. (SPP), tendered for filing certain changes to the Agreement for Capacity and Energy Services in Southwest Power Pool (Agreement) in compliance with the Federal Energy Regulatory Commission's May 27, 1999, order in the proceeding captioned above.

Comment date: July 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Duke Electric Transmission

[Docket No. ER99–2331–001]

Take notice that on June 28, 1999, Duke Electric Transmission, a division of Duke Energy Corporation (Duke), tendered for filing a compliance filing pursuant to the Commission's May 28, 1999 Order in the above-referenced docket involving generation imbalance charges.

Duke states that a copy has been served on the Service List in this proceeding.

Comment date: July 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. International Energy Consultants, Inc.

[Docket No. ER99–3130–000]

Take notice that on June 28, 1999, International Energy Consultants, Inc. (International), tendered for filing in the above-referenced docket an amendment to its petition, filed with the Commission on June 2, 1999, for Commission approval to engage in wholesale electric power and energy transactions as a power marketer. International states that the amendment has been submitted in response to a request from FERC staff for additional information concerning ownership, affiliation and business activities of International.

Comment date: July 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Colockum Transmission Company, Inc.

[Docket No. ER99–3257–000]

Take notice that on June 28, 1999, pursuant to Section 385.216, 18 CFR 385.216 of the Commission's Regulations, Colockum Transmission Company, Inc. (Colockum) tendered for filing with the Federal Energy Regulatory Commission a Notice of Withdrawal of its Notice of Termination of the 1988 Exchange Agreement between Colockum and PacifiCorp, effective date July 1, 1988, designated as Colockum Rate Schedule FERC No. 2, which Colockum filed on June 15, 1999.

Comment date: July 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Central Hudson Gas & Electric Corporation

[Docket No. ER99–3378–000]

Take notice that on June 28, 1999, Central Hudson Gas & Electric Corporation (CHG&E), tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations in 18 CFR a Service Agreement between CHG&E and Strategic Energy Ltd. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Open Access Schedule, Original Volume No. 1 (Transmission Tariff) filed in compliance with the Commission's Order No. 888 in Docket No. RM95–8–000 and RM94–7–001 and amended in compliance with Commission Order dated May 28, 1997.

CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR Section 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: July 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Central Hudson Gas & Electric Corporation

[Docket No. ER99–3379–000]

Take notice that on June 28, 1999, Central Hudson Gas & Electric Corporation (CHG&E), tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations in 18 CFR a Service Agreement between CHG&E and VTEC Energy, Inc. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Open Access Schedule, Original Volume No. 1 (Transmission Tariff) filed in compliance with the Commission's

Order No. 888 in Docket No. RM95–8–000 and RM94–7–001 and amended in compliance with Commission Order dated May 28, 1997.

CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR Section 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: July 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Southern California Edison Company

[Docket No. ER99–3385–000]

Take notice that on June 28, 1999, Southern California Edison Company (SCE), tendered for filing the executed Service Agreement for Wholesale Distribution Service under SCE's Wholesale Distribution Access Tariff and the Additional Facilities Agreement between SCE and Green Power Partners I LLC.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: July 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Alliant Energy Corporate Services, Inc.

[Docket No. ER99–3387–000]

Take notice that on June 28, 1999, Alliant Energy Corporate Services, Inc., tendered for filing two executed service agreements for transmission service. One agreement is for short-term firm point-to-point transmission service, the other agreement is for non-firm point-to-point transmission service. The agreements are signed by Missouri River Energy Services and Alliant Energy Corporate Services, Inc.

Alliant Energy Corporate Services, Inc., requests an effective date of June 24, 1999, and accordingly, seeks waiver of the Commission's notice requirements.

A copy of this filing has been served upon the Illinois Commerce Commission, the Minnesota Public Utilities Commission, the Iowa Department of Commerce, and the Public Service Commission of Wisconsin.

Comment date: July 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. PP&L, Inc.

[Docket No. ER99–3388–000]

Take notice that on June 28, 1999, PP&L, Inc. (PP&L), tendered for filing a Service Agreement dated June 18, 1999, with WISVEST–CONNECTICUT, LLC (Wisvest) under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Revised Volume No. 5. The Service Agreement adds Wisvest as an eligible customer under the Tariff.

PP&L requests an effective date of June 28, 1999, for the Service Agreement.

PP&L states that copies of this filing have been supplied to Wisvest and to the Pennsylvania Public Utility Commission.

Comment date: July 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. PP&L, Inc.

[Docket No. ER99–3389–000]

Take Notice that on June 28, 1999, PP&L, Inc. (PP&L), tendered for filing a Service Agreement dated May 25, 1999 with UGI Utilities, Inc. (UGI) under PP&L's Market-Based Rate and Resale of Transmission Rights Tariff, FERC Electric Tariff, Revised Volume No. 5. The Service Agreement adds UGI as an eligible customer under the Tariff.

PP&L requests an effective date of June 28, 1999, for the Service Agreement.

PP&L states that copies of this filing have been supplied to UGI and to the Pennsylvania Public Utility Commission.

Comment date: July 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. PECO Energy Company

[Docket No. ER99–3390–000]

Take notice that on June 28, 1999, PECO Energy Company (PECO), tendered for filing under Section 205 of the Federal Power Act, 16 U.S.C. § 792 *et seq.*, a Transaction Agreement dated May 12, 1999 with Borough of Butler, New Jersey (Butler) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff).

PECO requests an effective date of June 1, 1999, for the Agreement.

PECO states that copies of this filing have been supplied to Butler and to the Pennsylvania Public Utility Commission.

Comment date: July 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Western Systems Coordinating Council

[Docket No. ER99–3396–000]

Take notice that on June 28, 1999, the Western Systems Coordinating Council (WSCC), tendered for filing with the Commission executed agreements with participants in the WSCC's Reliability Management System.

The WSCC requests that the Commission act on the filing by August 2, 1999.

Comment date: July 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Niagara Mohawk Power Corporation

[Docket No. ER99–3397–000]

Take notice that on June 28, 1999, Niagara Mohawk Power Corporation tendered for filing Amendment No. 1, to the Interconnection Agreement, Rate Schedule FERC No. 259, pursuant to Section 205 of the Federal Power Act, 16 U.S.C. 824 d, and Part 35 of the Commission's Regulations, 18 CFR Part 35.

A copy of this filing has been served on the New York State Public Service Commission, as well as the official service list in the above-captioned docket.

Comment date: July 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17440 Filed 7–8–99; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG99–175–000, et al.]

Rocky Mountain Cogeneration LLC, et al.; Electric Rate and Corporate Regulation Filings

June 30, 1999.

1. Rocky Mountain Cogeneration LLC

[Docket No. EG99–175–000]

Take notice that on June 25, 1999, Rocky Mountain Cogeneration LLC, c/o Mr. Michael J. Ruffatto, President, North American Power Group, Ltd., 8480 East Orchard Road, Suite 4000, Greenwood Village, Colorado 80111, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Rocky Mountain Cogeneration LLC is a Colorado limited liability company. Rocky Mountain Cogeneration LLC will own and operate an approximately 180 MW facility located in Adams County, Colorado (''Facility''). Electricity generated by the Facility will be sold at wholesale to one or more power marketers, public utilities or other wholesalers.

Comment date: July 21, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Wellhead Generating Company, LLC

[Docket No. EG99–176–000]

Take notice that on June 25, 1999, Wellhead Generating Company LLC (Wellhead), a Delaware limited liability company with its principal place of business at 7500 Old Georgetown Road, 13th Floor, Bethesda, MD 20814, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Wellhead will be engaged directly and exclusively in the business of owning or operating, or both owning and operating, eligible facilities as defined in Section 32(a) of PUHCA and selling electric energy exclusively at wholesale. The eligible facilities may be located throughout the United States. At present, Wellhead owns certain 130 kW natural gas-fired generators to be located throughout the state of Texas and such interconnection transmission facilities as necessary to effect sales of electric energy at wholesale.

Comment date: July 21, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Ultrapower 3, A Joint Venture

[Docket No. EG99–177–000]

Take notice that on June 25, 1999, Ultrapower 3, A Joint Venture (Ultrapower 3), c/o Mr. Michael J. Ruffatto, President, North American Power Group, Ltd., 8480 East Orchard Road, Suite 4000, Greenwood Village, Colorado 80111, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Ultrapower 3 is a California general partnership. Ultrapower 3 will own and operate an approximately 25 MW facility located in Blue Lake, California (Facility). Electricity generated by the Facility will be sold at wholesale to one or more power marketers or the California PX.

Comment date: July 21, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Southern Energy Bowline, L.L.C.

[Docket No. EG99–178–000]

Take notice that on June 28, 1999, Southern Energy Bowline, L.L.C. (Southern Bowline), 900 Ashwood Parkway, Suite 500, Atlanta, Georgia 30338, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Southern Bowline is a Delaware limited liability company that intends to acquire a direct 100 percent ownership interest in the Bowline Point Generating Station located in the Village of West Haverstraw, New York (the Facility). The Facility has an aggregate generating capacity of approximately 1200 MW. Southern Bowline is engaged directly and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale.

Comment date: July 21, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. Southern Energy NY–GEN, L.L.C.

[Docket No. EG99–179–000]

Take notice that on June 28, 1999, Southern Energy NY–GEN, L.L.C. (Southern NY–GEN), 900 Ashwood Parkway, Suite 500, Atlanta, Georgia 30338, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Southern NY–GEN is a Delaware limited liability company that intends to acquire ownership interests in certain gas turbine and hydroelectric assets located in New York (the Facilities). The Facilities have an aggregate generating capacity of approximately 124 MW. Southern NY–GEN is engaged directly and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale.

Comment date: July 21, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

6. Southern Energy Lovett, L.L.C.

[Docket No. EG99–180–000]

Take notice that on June 28, 1999, Southern Energy Lovett, L.L.C. (Southern Lovett), 900 Ashwood Parkway, Suite 500, Atlanta, Georgia 30338, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Southern Lovett is a Delaware limited liability company that intends to acquire a direct 100 percent ownership interest in the Lovett Station located in Tomkins Cove, New York (the Facility). The Facility has an aggregate generating capacity of approximately 453 MW. Southern Lovett is engaged directly and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale.

Comment date: July 21, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

7. Griffiss Local Development Corporation

[Docket No. EL99–73–000]

Take notice that on June 24, 1999, Griffiss Local Development Corporation tendered for filing with the Federal

Energy Regulatory Commission, a Petition for Expedited Declaratory Order.

Comment date: July 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. DTE-CoEnergy L.L.C.

[Docket No. ER97–3835–007]

Take notice that on June 25, 1999, DTE-CoEnergy L.L.C., tendered for filing notification of change in status indicating that the Company will be dissolved effective June 30, 1999.

Comment date: July 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma, and Southwestern Electric Power Company

[Docket No. ER99–2779–000]

Take notice that on June 25, 1999, Central Power and Light Company (CPL), West Texas Utilities Company (WTU), Public Service Company of Oklahoma (PSO) and Southwestern Electric Power Company (SWEPCO) (collectively, the CSW Operating Companies) tendered an amendment to its May 3, 1999, filing in this proceeding in response to a Letter Order issued in this proceeding on May 26, 1999.

The CSW Operating Companies state that a copy of the filing has been served on all parties to Docket No. ER99–2779–000.

Comment date: July 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Power Management Co., L.L.C.

[Docket No. ER99–3275–000]

Take notice that on June 25, 1999, Power Management Co., L.L.C., tendered for filing an amendment to its Petition for Acceptance of Initial Rate Schedule, Waivers and Blanket Authority filed with the Commission on June 16, 1999, in the above-referenced docket.

Comment date: July 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Wisconsin Public Service Corporation

[Docket No. ER99–3356–000]

Take notice that on June 25, 1999, Wisconsin Public Service Corporation tendered for filing an executed service agreement with TransAlta Energy Marketing (U.S.) Inc., under its Market-Based Rate Tariff.

Comment date: July 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. New York State Electric & Gas Corporation

[Docket No. ER99–3357–000]

Take notice that on June 25, 1999, New York State Electric & Gas Corporation (NYSEG), tendered for filing Service Agreements between NYSEG and Select Energy, Inc., KeySpan Energy Trading Services LLC and Merrill Lynch (Customer). These Service Agreements specify that the Customer has agreed to the rates, terms and conditions of the NYSEG open access transmission tariff filed July 9, 1997 and effective on November 27, 1997, in Docket No. ER97–2353–000.

NYSEG requests waiver of the Commission's sixty-day notice requirements and an effective date of June 28, 1999, for the Service Agreements. NYSEG has served copies of the filing on The New York State Public Service Commission and on the Customer.

Comment date: July 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Southern California Edison Company

[Docket No. ER99–3358–000]

Take notice that on June 25, 1999, Southern California Edison Company (SCE), tendered for filing an executed Service Agreement for Wholesale Distribution Service with PacifiCorp under SCE's Wholesale Distribution Access Tariff.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: July 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. PECO Energy Company

[Docket No. ER99–3359–000]

Take notice that on June 25, 1999, PECO Energy Company, tendered for filing under Section 205 of the Federal Power Act, 16 U.S.C. 792 *et seq.*, a Transaction Agreement dated May 12, 1999 with Borough of Lavallette, New Jersey (Lavallette) under PECO's FERC Electric Tariff Original Volume No.1 (Tariff).

PECO requests an effective date of June 1, 1999, for the Agreement.

PECO states that copies of this filing have been supplied to Lavellette and to the Pennsylvania Public Utility Commission.

Comment date: July 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. PECO Energy Company

[Docket No. ER99–3360–000]

Take notice that on June 25, 1999, PECO Energy Company (PECO), tendered for filing a Service Agreement dated May 11, 1999 with Borough of Butler, New Jersey (BUTLER) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds BUTLER as a customer under the Tariff.

PECO requests an effective date of May 11, 1999, for the Service Agreement.

PECO states that copies of this filing have been supplied to BUTLER and to the Pennsylvania Public Utility Commission.

Comment date: July 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Central Maine Power Company

[Docket No. ER99–3361–000]

Take notice that on June 25, 1999, Central Maine Power Company (CMP), tendered for filing a service agreement for Non-Firm Point-to-Point Transmission Service entered into with Greenville Steam Company. Service will be provided pursuant to CMP's Open Access Transmission Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 3, as supplemented.

Comment date: July 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. PECO Energy Company

[Docket No. ER99–3362–000]

Take notice that on June 25, 1999, PECO Energy Company (PECO), tendered for filing under Section 205 of the Federal Power Act, 16 U.S.C. 792 *et seq.*, a Transaction Letter dated June 24, 1999 with Horizon Energy Company d/b/a Exelon Energy (EXELON) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff).

PECO requests an effective date of July 1, 1999, for the Transaction Letter.

PECO states that copies of this filing have been supplied to EXELON and to the Pennsylvania Public Utility Commission.

Comment date: July 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Cinergy Services, Inc.

[Docket No. ER99–3363–000]

Take notice that on June 22, 1999, Cinergy Services, Inc. (Cinergy) and New York State Electric & Gas Corporation (NYSEG), are requesting via a Notice of Assignment that NYSEG will replace NGE Generation Inc., of

Cinergy's Cost-Based Power Sales Tariff Original Volume No. 6–CB, Service Agreement No. 165, dated January 2, 1998.

Cinergy and NYSEG are requesting an effective date of May 14, 1999.

Comment date: July 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Cinergy Services, Inc.

[Docket No. ER99–3364–000]

Take notice that on June 25, 1999, Cinergy Services, Inc., collectively as agent on behalf of its utility company affiliates, The Cincinnati Gas & Electric Company and PSI Energy, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Cost-Based Power Sales Standard Tariff-CB (the tariff) entered into between Cinergy and Cleco Corporation (CLECO).

Cinergy and CLECO are requesting an effective date of one day after the filing of this Power Sales Service Agreement.

Comment date: July 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Cinergy Services, Inc.

[Docket No. ER99–3365–000]

Take notice that Cinergy Services, Inc. (Cinergy), and New York State Electric & Gas Corporation (NYSEG), on June 22, 1999, are requesting via a Notice of Assignment that NYSEG will replace NGE Generation Inc. of Cinergy's Market-Based Power Sales Tariff Original Volume No. 7–MB, Service Agreement No. 165, dated January 2, 1998.

Cinergy and NYSEG are requesting an effective date of May 14, 1999.

Comment date: July 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. Cinergy Services, Inc.

[Docket No. ER99–3366–000]

Take notice that on June 25, 1999, Cinergy Services, Inc. (Cinergy) and New York State Electric & Gas Corporation (NYSEG), tendered for filing a request via a Notice of Assignment that NYSEG replace NGE Generation Inc., for Cinergy's Market-Based Power Sales Tariff Original Volume No. 7–MB, Service Agreement No. 165, dated January 2, 1998.

Cinergy and NYSEG are requesting an effective date of May 14, 1999.

Comment date: July 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Idaho Power Company

[Docket No. ER99–3367–000]

Take notice that on June 25, 1999, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission a Wholesale Power Purchase and Sale Agreement between Idaho Power Company and Portland General Electric Company.

Comment date: July 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. DTE Energy Marketing, Inc.

[Docket No. ER99–3368–000]

Take notice that on June 25, 1999, DTE Energy Marketing, Inc., tendered for filing an initial rate schedule to sell power and certain ancillary services at market-based rates and for certain waivers of the Commission's filing and reporting requirements.

Comment date: July 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. Penobscot Hydro, LLC

[Docket No. ER99–3369–000]

Take notice that on June 25, 1999, Penobscot Hydro, LLC (Penobscot), tendered for filing an umbrella Service Agreement for transactions between Penobscot and PP&L EnergyPlus Company, which was entered into pursuant to Penobscot's market-based rate tariff.

Comment date: July 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. Kansas City Power & Light Company

[Docket No. ER99–3370–000]

Take notice that on June 25, 1999, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated May 25, 1999, between KCPL and El Paso Power Services. This Agreement provides for the rates and charges for Non-Firm Transmission Service. In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to FERC Order No. 888–A in Docket No. OA97–636.

KCPL proposes an effective date of June 14, 1999 and requests waiver of the Commission's notice requirement.

Comment date: July 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. PECO Energy Company

[Docket No. ER99–3371–000]

Take notice that on June 25, 1999, PECO Energy Company (PECO), tendered for filing under Section 205 of the Federal Power Act, 16 U.S.C. 792 *et seq.*, a Transaction Agreement dated May 12, 1999, with Borough of Pemberton, New Jersey (Pemberton), under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff).

PECO requests an effective date of June 1, 1999, for the Agreement.

PECO states that copies of this filing have been supplied to Pemberton and to the Pennsylvania Public Utility Commission.

Comment date: July 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

27. PECO Energy Company

[Docket No. ER99–3372–000]

Take notice that on June 25, 1999, PECO Energy Company (PECO), tendered for filing under Section 205 of the Federal Power Act, 16 U.S.C. 792 *et seq.*, a Transaction Agreement dated May 12, 1999 with Borough of Madison, New Jersey (Madison) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff).

PECO requests an effective date of June 1, 1999, for the Agreement.

PECO states that copies of this filing have been supplied to Madison and to the Pennsylvania Public Utility Commission.

Comment date: July 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

28. PECO Energy Company

[Docket No. ER99–3373–000]

Take notice that on June 25, 1999, PECO Energy Company (PECO), tendered for filing under Section 205 of the Federal Power Act, 16 U.S.C. 792 *et seq.*, a Transaction Agreement dated May 12, 1999 with Borough of Seaside Heights, New Jersey (Seaside Heights) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff).

PECO requests an effective date of June 1, 1999, for the Agreement.

PECO states that copies of this filing have been supplied to Seaside Heights and to the Pennsylvania Public Utility Commission.

Comment date: July 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

29. Arizona Public Service Company

[Docket No. ER99–3374–000]

Take notice that on June 25, 1999, Arizona Public Service Company, tendered for filing a service agreement under APS' FERC Electric Tariff, Original Volume No. 4 for service to the United States Department of Interior, Bureau of Indian Affairs, San Carlos Irrigation Project (SCIP).

A copy of this filing has been served on the Arizona Corporation Commission and SCIP.

Comment date: July 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

30. Arthur Kill Power LLC

[Docket No. ER99–3375–000]

Take notice that on June 25, 1999, Arthur Kill Power LLC, tendered for filing under its market-based rate tariff two long-term service agreements with Consolidated Edison Company of New York, Inc., and one long-term service agreement with NRG Power Marketing, Inc.

Comment date: July 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

31. Cinergy Services, Inc.

[Docket No. ER99–3376–000]

Take notice that on June 25, 1999, Cinergy Services, Inc., on behalf of its Operating Company affiliates, The Cincinnati Gas & Electric Company and PSI Energy, Inc. (COC), tendered for filing an executed service agreement between COC and Tenaska Power Services Co. (Tenaska), replacing the unexecuted service agreement filed on April 16, 1999 under Docket No. ER99–2511–000 per COC FERC Electric Market-Based Power Sales Tariff, Original Volume No. 7–MB.

Cinergy is requesting an effective date of May 1, 1999 and the same Rate Designation as per the original filing.

Comment date: July 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

32. Astoria Gas Turbine Power LLC

[Docket No. ER99–3377–000]

Take notice that on June 25, 1999, Astoria Gas Turbine Power LLC, tendered for filing under its market-based rate tariff two long-term service agreements with Consolidated Edison Company of New York, Inc., and one long-term service agreement with NRG Power Marketing, Inc.

Comment date: July 15, 1999, in accordance with Standard Paragraph E at the end of this notice.

33. Michael L. Jines, James E. Hammelman, Rufus S. Scott and Lloyd A. Whittington

[Docket Nos. ID–3384–000, ID–3385–000, ID–3386–000 and ID–3387–000]

Take notice that on June 25, 1999, the following officers of El Dorado Energy, LLC tendered for filing with the Federal Energy Regulatory Commission (Commission) abbreviated applications pursuant to Section 305(b) of the Federal Power Act, 16 U.S.C. 825d(b) (1994), and the Commission's Order in El Dorado Energy, LLC, 85 F.E.R.C. (CCH) ¶61,006 (1998), to hold jurisdictional interlocks:

Michael L. Jines
James E. Hammelman
Rufus S. Scott
Lloyd A. Whittington

Comment date: July 26, 1999, in accordance with Standard Paragraph E at the end of this notice.

34. Air Products and Chemicals, Inc.

[Docket No. QF99–84–000]

Take notice that on June 22, 1999, Air Products and Chemicals, Inc., tendered for filing supplemental information to its application filed on May 28, 1999 in the above-referenced docket. No determination has been made that this filing constitutes a complete filing.

The supplement provides additional information pertaining to the technical aspects and the ownership of the cogeneration facility.

Comment date: July 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17421 Filed 7–8–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Proposed Rate Adjustment

AGENCY: Southeastern Power Administration, DOE.

ACTION: Notice of rate order.

SUMMARY: The Secretary of Department of Energy, confirmed and approved, on an interim basis, Rate Schedules CBR–1–D, CSI–1–D, CEK–1–D, CM–1–D, CC–1–E, CK–1–D, CTV–1–D, and SJ–1–A. The rates were approved on an interim basis through June 30, 2004, and are subject to confirmation and approval by the Federal Energy Regulatory Commission on a final basis.

DATES: Approval of rate on an interim basis is effective through June 30, 2004.

FOR FURTHER INFORMATION CONTACT: Leon Jourolmon, Assistant Administrator, Finance & Marketing, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, 2 South Public Square, Elberton, Georgia 30635–2496, (706) 213–3800.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission, by Order issued December 14, 1994, in Docket No.EF94–3021–000, confirmed and approved Wholesale Power Rate Schedules CBR–1–C, CSI–1–C, CK–1–C, CC–1–D, CM–1–C, CEK–1–C, and CTV–1–C. By order issued August 11, 1997, in Docket No. EF97–3021–000, the Federal Energy Regulatory Commission confirmed and approved rate schedule SJ–1. Rate schedules CBR–1–D, CSI–1–D, CEK–1–D, CM–1–D, CC–1–E, CK–1–D, CTV–1–D, and SJ–1–A replace these schedules.

Dated: June 29, 1999.

Bill Richardson,

Secretary.

Southeastern Power Administration—Cumberland; Order Confirming and Approving Power Rates on an Interim Basis

[Rate Order No. SEPA–38]

Pursuant to Sections 302(a) and 301(b) of the Department of Energy Organization Act, Public Law 95–91, the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southeastern Power Administration (Southeastern), were transferred to and vested in the Secretary of Energy. On November 4, 1993, the Secretary of Energy issued Amendment No. 3 to Delegation Order No. 0204–108, published November 10, 1993 at 58 FR 59716, which delegated (1) The authority to develop long-term power and transmission rates on a nonexclusive basis to the Administrator of the Southeastern (Southeastern); (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to the Federal Energy Regulatory Commission (FERC). By subsequent

Order effective April 15, 1999, the Secretary rescinded all delegations of authority to the Deputy Secretary, whether contained in Delegation Orders, Departmental Directives, or elsewhere, concerning the Department's Power Marketing Administrations, including, but not limited to, authority delegated or affirmed in Delegation Order No. 0204–108, as amended. Existing DOE procedures for public participation in power rate adjustments are found at 10 CFR part 903. Procedures for approving power marketing administration rates by FERC are found at 18 CFR part 300. This rate is issued by the Secretary by pursuant to said notice.

Background

Power from the Cumberland System of Projects is presently sold under Wholesale Power Rate Schedules CBR–1–C, CSI–1–C, CEK–1–C, CM–1–C, CC–1–D, CK–1–C, CTV–1–C, and SJ–1. These rate schedules were approved by the FERC on December 14, 1994 and August 11, 1997, for a period ending June 30, 1999 (69 FERC 61333 and 80 FERC 62123).

Discussion

System Repayment

An examination of Southeastern's revised system power repayment study, prepared in January 1999, for the Cumberland System shows that with an annual revenue increase of $2,272,000 over the revenues in the current repayment study using current rates, all system power costs are paid within the 50-year repayment period required by existing law and DOE Procedure RA 6120.2. The Administrator of Southeastern has certified that the rates are consistent with applicable law and that they are the lowest possible rates to customers consistent with sound business principles.

Public Notice and Comment

Opportunity for Public Review and Comment on Wholesale Power Rate Schedules CBR–1–D, CSI–1–D, CEK–1–D, CM–1–D, CC–1–E, CK–1–D, CTV–1–D, and SJ–1–A, was announced by notice published in the **Federal Register** February 9, 1999. A Public Information and Comment Forum was held March 16, 1999, in Nashville, Tennessee, and written comments were invited through May 10, 1999. The notice proposed rates with a revenue increase of $2,272,000 in Fiscal Year 1999 and all future years. Transcript of the Public Information and Comment Forum is included as Exhibit A–4. A review of comments is included as Exhibit A–5. The following is a summary of the comments.

Staff Evaluation of Public Comments

Comments and questions from four sources were received at the Public Comment Forum held in Nashville, Tennessee on March 16, 1999. These are included in the Forum Transcripts which are included as Exhibit A–4. Written comments and questions from four sources were received by mail and facsimile during the comment period and are attached. The comments were received pursuant to **Federal Register** Notice 64 Fed. Reg. 6341 dated February 9, 1999.

Comments have been condensed into six major categories. An outline of the six major categories and subcategories of each is as follows:

1. Justification of the TVA transmission rate
2. Rate design
   - A. Inclusion of the TVA transmission credit with the other costs of providing service
   - B. Comparative value of service provided
   - C. Cost recovery from energy and capacity
   - D. Disproportionate impact on the Kentucky Utilities Municipals
   - E. Phase-in of the rate adjustment
3. SEPA Power Marketing Policy
   - A. Allocation of Energy
   - B. Ability to negotiate power contracts
4. SEPA's contract with TVA and TVPPA
   - A. Use of TVA transmission facilities
   - B. Amount of Capacity Wheeled
5. Cost of Service Issues
   - A. Budgeted replacements
   - B. CSRS
6. Rate Implementation

1. Justification of the TVA Transmission Rate

Comment 1: Historically, Southeastern Power Administration's (SEPA or Southeastern) rate treatment of the SEPA transmission credit to TVA resulted in TVA realizing significantly less than the total cost to TVA of transmitting SEPA power across the TVA transmission system. This is a problem that needs to be corrected.

Comment 2: TVA's proposed transmission charges to SEPA are plainly excessive. When the current TVA transmission charges were established about five year ago, the rate under TVA's transmission tariff (or equivalent) was about $2.00 per kW/Month. In the intervening years, TVA's tariff rate has decreased to about $1.57 per kW/Month, yet TVA seeks an increase in its charges to SEPA of approximately $2.5 million, for a total of about $9.5 million. On its face, TVA's proposed increase is unjustified.

Comment 3: The purportedly cost-based TVA transmission charges contain many elements that are excessive or questionable. For example:

a. TVA has not properly determined the facilities to be include in transmission rate base for ratemaking purposes. For example, TVA has improperly included generator step-up facilities and has not justified its inclusion of such facilities as radial lines and customer-specific facilities.

b. TVA exclusion of certain loads from its rate divisors and its use of revenue credits for certain services, rather than allocating costs to those services, tend to inflate TVA's transmission rates.

c. TVA's inclusion of a 10% margin is unjustified.

d. TVA's inclusion of a 5% ''factor'' for payments in lieu of taxes has not been justified.

e. TVA's charges should be adjusted to reflect the limited service that TVA provides in the transmission of SEPA allocations, which include limitations on the amounts and scheduling of energy associated with the capacity being purchased. Alternatively, if SEPA and its customers are to be required to pay for transmission capacity year-round, they should be entitled to make full use of the transmission services for which they are paying.

f. The annual, levelized carrying charge rate implicit in TVA's revenue requirement as a percentage of gross plant investment appears excessive in relation to those of other utilities in the region, even before taking into account the fact that TVA does not pay income taxes.

g. With declining TVA transmission costs during recent years, its proposed rates based upon a single year's costs should be scrutinized for the applicability in SEPA rates that are to be in effect for five years.

h. Administrative and general expenses do not appear to have been properly functionalized prior to their allocation.

i. TVA's derivation of charges for scheduling service are not supported and appear excessive in relation to corresponding charges of other utilities.

j. TVA proposes to establish the new transmission rates applicable to SEPA based upon fiscal year 1997, which ended September 30, 1997, or nearly two years prior to the effective date of TVA's proposed rate increase.

k. It is SeFPC's understanding that TVA is proposing to apply its transmission tariff formula rate to SEPA's service and thus change SEPA's rate annually. TVA's formula rate procedures under its tariff call for annual rate changes effective January 1 of each year based upon data for the second preceding fiscal year. For example, rate changes under the tariff effective January 1, 1999 are based upon fiscal year 1997 data. The lag is only fifteen (15) months. Since adjustments to the rate applicable to SEPA would change each July 1, this makes the lag twenty-one (21) months without justification. If TVA is to use a formula rate which adjusts annually on July 1, it is reasonable, under facts specific to SEPA, to use a test year ending no earlier than the preceding fiscal year (e.g., fiscal 1998 for rates effective July 1, 1999).

l. SeFPC questions the inclusion of facilities with voltage less than 166 kV in the determination of TVA's proposed transmission rate.

Response: Section 9.1 of the TVA–SEPA–TVPPA Contract, executed

October 1, 1997, allows TVA to adjust rates for delivering power to the points of delivery to the ''Other Customers'' defined as customers outside the TVA area. Section 9.1 does not provide any means for SEPA to determine an appropriate transmission rate. TVA and the ''Other Customers'' are disagreeing over the appropriateness of the rate increase. SEPA's only recourse, when TVA and the Outside Customers disagree, is to try to determine an equitable split of the costs; therefore, SEPA has determined to allocate a comparable increase to all customers. SEPA will support discussions between TVA and the customers outside the TVA system in an effort to reach a negotiated settlement on an appropriate amount for the TVA transmission charge.

2. Rate Design

A. Inclusion of the TVA Transmission Credit With the Other Costs of Providing Service

Comment 1: TVA is paying approximately 60 percent of the increased charges for TVA transmission service to transport SEPA power to other SEPA customers. The proposed methodology fails to compensate TVA adequately for the use of its transmission facilities to deliver SEPA power to customers outside the TVA area and shifts costs from certain of SEPA's customer to TVA distributors and directly served customers.

Comment 2: It is entirely inappropriate for TVA to bear the costs for transmitting the SEPA power to others in what amounts to an arbitrary assignment of costs to TVA and its customers.

Comment 3: The manner in which SEPA charges TVA for power the Cumberland Projects results in discriminatory charges for use of TVA's system.

Comment 4: SEPA's proposed rate would mean that those who receive SEPA power over TVA's transmission system receive the benefit of firm transmission service on the TVA system but do not pay their fair share of TVA's cost-based transmission service, while TVA power customers and other transmission customers pay a higher rate for the same type of transmission service. This is an unfair shifting of costs.

Comment 5: The SEPA rate should pass through the TVA published cost-based transmission charges to those SEPA preference customers receiving power wheeled across the TVA system, as SEPA does with other transmission providers' charges.

Comment 6: By combining together TVA's transmission charges with the cost of SEPA's power, SEPA arbitrarily disregards Federal Energy Regulatory Commission (FERC) policy and utility industry practice of separating (unbundling new arrangements for) transmission charges from power and energy charges. SEPA is similarly arbitrary in singling out TVA transmission charges for this ''rolled in'' rate: those SEPA customers served through the transmission system of Carolina Power & Light Company (CP&L) have their transmission charge unbundled from the SEPA power cost as a separate pass-through, as do other SEPA customers taking power from projects other than the Cumberland Basin Projects.

Comment 7: The CP&L transmission cost component is clearly broken out as a separate charge in the very same rate proposal in which TVA's transmission cost component is deceptively buried. SEPA does not provide a reasoned basis for this arbitrarily disparate ratemaking treatment of transmission charges attributable to TVA.

Comment 8: The proposed SEPA methodology would have the effect of allowing the customers outside the TVA area to obtain a type of premium on-peak firm transmission service at charges that do not fully recover the costs of providing such service and that are less than charges that would be charged others requesting other types of premium service (point-to-point firm transmission service).

Comment 9: While TVA recognizes that ratemaking is a highly complex process, one basic premise is that customers should not be forced to pay for services or benefits provided for other customers. If the costs of providing services to one group are different from the costs of serving another, the two groups are, in one important respect, different, and it is appropriate for that difference to be addressed in the ratemaking process. TVA recommends remedying this defect in SEPA's proposed rates by treating TVA's transmission costs solely as a pass-through, like those of CP&L, rather than adjusting the energy charge, which effectively results in TVA paying some 53 percent of the increased costs of providing transmission service to SEPA customers outside the TVA area.

Comment 10: SEPA arbitrarily disregards FERC and industry practice of transmission unbundling.

Comment 11: To the extent that TVA does not recover from SEPA the costs for SEPA's use of TVA's transmission facilities to wheel power to SEPA's preference customers outside the TVA region, the those costs are unfairly and unlawfully shifted to TVPPA member systems. TVPPA opposes such cost-shifting to its members.

Response: SEPA will support continued discussions between TVA and the customers outside the TVA system in an effort to reach a negotiated settlement on an appropriate amount of the TVA transmission charge. TVA's proposed transmission charge appears to be substantially higher than the transmission charges SEPA pays to investor owned utilities in the southeastern region. TVA's transmission rates are not subject to the same review as investor owned utilities. Considering these factors, SEPA does not at this time consider it appropriate to treat the TVA transmission charges as a pass-through rate, which is how SEPA treats most of the transmission charges of other utilities. Rather, SEPA has determined to allocate a comparable increase to all customers.

B. Comparative Value of Service Provided

Comment 1: SEPA's allocation of energy has resulted in TVA receiving greater value from the Cumberland River System Projects than the customers outside the TVA area. This has not been taken into consideration in the development of the rate.

Comment 2: Please provide an explanation of why the energy allocation values were not considered in the development of the rate.

Response: Energy allocations are a part of the Southeastern Power Marketing Policy for the Cumberland System of Projects published in the **Federal Register** August 5, 1993, 58 FR 41762, and are not subject to review in these proceedings. A determination of the value of these allocations in the development of the rates would require an assessment of market rates for power in the relevant markets. SEPA is required to market power at cost-based rates, rather than at market-based rates. SEPA does not believe it can appropriately assess the relative value of the energy allocations.

C. Cost Recovery From Energy and Capacity

Comment: SEPA distorts transaction economics and arbitrarily disregards ratemaking practice by assigning significant fixed costs to energy charges.

Response: Traditional utility rate design practice assigns fixed costs to capacity charges and variable costs to energy charges. In a hydroelectric system, where there is no fuel cost and almost all of the costs are fixed, the capacity charge would be designed to recover nearly 100 percent of the cost. Having only a capacity charge is not a

common method of setting rates, and does not provide an incentive for the customers to manage energy wisely. SEPA looked for a more equitable way to allocate costs. For the period from 1984 to 1994, SEPA compared its rates to the wholesale rates charged by utilities in the Southeastern portion of the United States. Based on these results, a rate design that recovered 40 percent of the costs from capacity and 60 percent from energy. In 1994 TVA objected to this rate design. After negotiations between SEPA, TVA, and the customers outside the TVA system, a rate design that included 1500 hours of energy with each kilowatt of capacity and an additional energy charge for energy above 1500 hours use was implemented as a negotiated settlement. SEPA is proposing to continue this rate design to allow for equal sharing of the cost increase.

D. Disproportionate Impact on the Kentucky Utilities Municipals

Comment: SEPA's rate design imposes a disproportionate increase on the KU Area Preference Customers. Given that the KU Area Preference Customers were denied access to the benefits of SEPA power for years (because of the actions of Kentucky Utilities Company, not of SEPA), it seems unfair for these utilities to bear the greatest percentage rate increase, after receiving the power for only two and one-half years. To the extent that any rate increase is found to be justified, an equal percentage increase to all customers would be more equitable and more consistent with the principles of cost-based ratemaking.

Response: The Kentucky Utilities Municipals are unique among the customers outside the TVA area. They are the only group that receives more than 1500 hours use per kilowatt per year. The Kentucky Utilities Municipals receive 1800 hours use, which means that they incur an additional energy charge for 300 hours use per kilowatt per year. Because of this additional energy, the rate increase for the Kentucky Utilities Municipals is slightly higher (7% versus 6%) than for the other customers of the Cumberland System.

E. Phase-in of the Rate Adjustment

Comment: SEPA should allow its customers the option of phasing in the proposed rate increase over the five-year period.

Response: The total rate adjustment is an increase of about seven percent to the most adversely affected customer group, which is the municipal customer in the Kentucky Utilities area. Because of the continued disagreement over the TVA transmission costs, it is very likely the rate will be modified prior to expiration of the 5 year rate. SEPA does not believe it is appropriate to use a phase-in of a rate adjustment for an increase of this relatively small magnitude.

3. SEPA Power Marketing Policy

A. Allocation of Energy

Comment: TVA was already overcompensated for transmission services under the existing arrangement, which includes not only charges to SEPA for services, but also make available ''excess'' energy to TVA in substantial amounts. TVA's transmission charges are unjustified, even without consideration of these additional benefits to TVA not reflected in the charges SEPA pays to TVA.

Response: The comment links the allocation of energy from the Cumberland System with TVA's compensation for providing transmission. The allocation of energy, which is a part of Southeastern Power Marketing Policy for the Cumberland System of Projects published in the **Federal Register** August 5, 1993, 58 FR 41762, is not subject to review in these proceedings. These proceedings pertain only to the rates for Cumberland System Power.

B. Ability to Negotiate Power Contracts

Comment: SEPA should allow SEPA's customers an option to purchase transmission service directly from TVA, with a corresponding reduction in the price of SEPA power to eliminate the currently bundled component for TVA transmission charges that is included in SEPA's proposed rates.

Response: SEPA negotiates transmission service contracts in behalf of SEPA's customers when it is determined to be in the best interest of the customers for SEPA to do so. If the customers wish to negotiate for transmission service in their own behalf, SEPA will support their efforts. Such arrangements may require modification or replacement of existing contracts between SEPA, the preference customers involved, TVA and TVPPA, and other area utilities.

4. SEPA's Contract With TVA and TVPPA

A. Use of TVA Transmission Facilities

Comment 1: Customer's outside the TVA area are being asked to pay what is described as TVA's full transmission costs. Yet the customers outside the TVA area have firm use of that transmission capacity for only 1500 hours per year.

Comment 2: SeFPC believes the 1500 hours limitation on the annual use of TVA's transmission system is unreasonable and does not represent the true value of the availability.

Comment 3: SeFPC customers should be allowed to utilize this excess capacity reservation to engage in non-firm transactions to other customers and fully utilize TVA's transmission system.

Response: These comments relate to the use of headroom, or the difference in the capacity that SEPA has reserved on the TVA system and the capacity that SEPA is actually using in any given hour. The current contract between SEPA, TVA, and TVPPA does not allow the use of headroom. SEPA is willing to negotiate modifications to the existing agreement that will allow the use of headroom.

B. Amount of Capacity Wheeled

Comment 1: SEPA has previously indicated that, notwithstanding TVA's clear contractual commitment to transmit up to 475 MW for the SEPA customers outside TVA, TVA somehow actually transmits less than that amount because two of SEPA's Cumberland projects are directly connected to two systems receiving Cumberland output (Big Rivers Electric Corporation and East Kentucky Power Cooperative). Contrary to SEPA's contentions, TVA's commitment to transmit 475 MW of power to the periphery is not lessened because of the location of specific Cumberland projects on the TVA system since the fully integrated TVA transmission system (not isolated pieces of the system) is utilized in providing the service.

Comment 2: TVA allocates 475,000 kW of transmission capacity to SEPA each month of the contract year. SeFPC believes that there are months or periods during the month that the full 475,000 kW of transmission capacity is not required by TVA.

Response: The current contract between SEPA, TVA, and TVPPA provides for the delivery of 475 MW of capacity at the TVA border. This includes the delivery of 190 MW to Big Rivers Electric Corporation, which has an interconnection with the Barkley Project, and 100 MW to East Kentucky Power Cooperative, which has an interconnection with the Wolf Creek Project. TVA has the right to schedule the output of eight of the ten Cumberland Projects, including these two projects. The output of the Barkley Project is 158 MW, and the output of the Wolf Creek Project is 274 MW. Big Rivers could receive 158 MW of their delivered capacity from the Barkley Project without utilization of the TVA

transmission system, and East Kentucky could receive all 100 MW of their delivered capacity from the Wolf Creek Project without utilization of the TVA transmission system. Under the existing contract between SEPA, TVA, and TVPPA it is unclear how much capacity is being transmitted across the TVA system. Reducing the amount of capacity transmitted would likely require modification of the existing agreement. This is a contractual matter, and is not appropriately addressed in these proceedings, which pertain to rates for the Cumberland System capacity and energy.

5. Cost of Service Issues

A. Budgeted Replacements

Comment: SEPA has paid into the treasury over $62 million cumulatively which has been applied to reduce the long-term debt owed by SEPA. SeFPC requests that SEPA review its construction expenditures budget to collect only those revenues required to meet its actual construction requirements.

Response: The DOE Order RA6120.2 requires SEPA to include the cost of replacements in the repayment studies used to support rate filings. SEPA has used the best estimates that were available over the years to determine the levels of future replacement costs. Over the years, SEPA's estimates have been in excess of the actual replacement costs, and by end of fiscal year 1998, the difference between estimated and actual replacement cost has grown to $62 million for the Cumberland System of projects. SEPA agrees with this comment and has joined with the Corps and the customers' organized committees to examine the future rehabilitation of the projects. SEPA is using the best estimates of the Corps in this repayment study. The Corps is estimating that a large amount of replacements will occur in the near future.

B. CSRS

The preference customers have objected to the inclusion of Civil Service Retirement System Costs and Health Benefit Costs (CSRS) that are funded by the Office of Personnel Management (OPM) in a prior SEPA rate filing. The Georgia-Alabama-South Carolina Rates were filed with the Commission on September 22, 1998, and approved by the Commission on February 26, 1999. See Southeastern Power Administration 86 FERC ¶61,195 (1999). The customers have requested a rehearing and the request is currently pending before the Commission. Many of these issues were responded to in the prior rate filing. We will respond to each comment individually.

Comment 1: The members of the SeFPC do not believe that the collection of CSRS costs remains within the cost recovery guidelines which the PMAs must follow.

Response: On July 1, 1998, DOE General Counsel Mary Anne Sullivan responded to the issue of SEPA's discretion to collect the full CSRS costs in rates by a memorandum opinion of same date entitled, ''PMA Authority To Collect In Rates, and Reimburse To Treasury, Government's Full Costs of Post Retirement Benefits' (Opinion). The Opinion is cited hereafter as (Mem. Opinion, July 1, 1998). A copy of the Memorandum Opinion is included as Attachment 1 to this notice, as well as part of the Administrator's record of decision as Exhibit A–5 filed with the Federal Energy Regulatory Commission (FERC) pursuant to 18 CFR 300.10 *et seq.* in support of this rate action. The Opinion concludes at page 4:

> * * * that it is reasonable to interpret the term ''cost'' in the organic statutes to include the total costs to the Government of post retirement benefits for PMA-related employees.

The July 1, 1998 Opinion also concludes, at page 7:

> DOE policy, FASB principles, and FERC ratemaking policy indicate the inclusion in rates applicable for a given period of all employer costs accruing in that period is a reasonable interpretation of the statutory obligation to recover costs.

Comment 2: The failure to follow Financial Accounting Standards Board represents an unexplained departure from the existing regulations which pertain to the recovery of costs by the PMAs.

Response: As explained more fully at page 4 of the July 1, 1998 DOE General Counsel's Opinion, there was no ''articulated legal judgment'' to bar to the inclusion of the cost of unfunded post-retirement benefits in rates. As explained in said Opinion, and in SEPA's responses to comments 4 and 16, SEPA is implementing the said Opinion to recover in our rates such costs.

The July 1, 1998 Opinion concluded on page 10, that ''* * * monies received from power rates to recover costs of unfunded liabilities from power marketed by SEPA * * *, would be deposited into the general fund of the Treasury as miscellaneous receipts,'' and that such ''* * * (p)ayments would therefore offset the appropriation for unfunded liability made to the OPM Funds.''

In accordance with such Opinion, SEPA is including a component in our rates which will operate as an offset against the annual appropriations by Congress to the Office of Personnel Management to fund post-retirement benefits promised to Federal retirees under existing law.

In the view of SEPA, such actions as we are undertaking for the second time since the July 1, 1998 Opinion was issued, were in accordance with the Congressional mandate, applicable law, and the requirements of DOE Order RA 6120.2 that SEPA establish its rates in accordance with generally accepted accounting principles as adopted by the Financial Accounting Standards Board (FASB).

Comment 3: Information SEPA has relied upon in calculating the rate increase [regarding CSRS] fails to comport with the regulations that SEPA and other PMAs must follow.

Response: SEPA used the best estimates for future years of the CSRS costs by estimating that future years would be the same as the actual 1998 CSRS cost of $818,991. The actual costs for 1998 were determined by using the ratio of OPM's share of the costs applied to the actual annual salaries for each Corps employee allocated to power. The same method was used to compute SEPA's CSRS cost. It should be noted that this comment was directed toward estimated costs used in the proposed rate filing presented to the customers at the rate forum. The estimate at that time was $789,000.

Comment 4: The inclusion of CSRS costs in the proposed rate increase also raises questions whether SEPA may recover CSRS costs for Corps employees. By operation of law, each federal agency makes deductions, contribution and deposits for retirement benefits for the agency's federal employees. The SEFPC submits that the discretion afforded by the Flood Control Act of 1944 to collect (full) CSRS costs must yield to the more explicit statutes, *i.e.* 5 U.S.C. 8334, placing an obligation upon the employing agency to deduct a percentage of the employee's pay and to contribute an equal amount from the appropriation or fund used to pay the employee to fund retirement costs.

Response: The Department of Energy has made a determination that it is appropriate for the PMAs to include the CSRS costs and pension health benefits costs that are funded by the OPM in the rates charged to customers. Therefore, SEPA has included the costs in the repayment study and thereby included them in the rates that SEPA proposes to charge to the customers. The DOE General Counsel's July 1, 1998 Opinion

reviewed SEPA's statutory framework to determine whether SEPA, under current law, (1) may collect in rates the costs of post-retirement benefits, and (2) pay these rates revenues into a non-revolving Treasury account ''* * * as an effective offset to appropriations [1] into the OPM funds from which these benefits are financed.''

The July 1, 1998 DOE General Counsel's Opinion synopsized them as follows:

A. The Civil Service Retirement Act provides retirement and disability benefits for federal employees. The employing agency deducts a percentage of an employee's basic pay, combines it with an equal amount contributed by the appropriate governmental agency, and deposits it in the Treasury to the credit of the Civil Service Retirement and Disability Fund (Retirement Fund), citing *Clark* v. *United States*, 691 F.2d 837, 841 (7th Cir. 2d 1982), 5 U.S.C. § 8334. Mem. Opinion (July 1, 1998), at 2;

B. The Federal Employees' Health Benefits Fund (Health Fund) consists of funds withheld from employees plus specified contributions by the employing agencies, citing 5 U.S.C. 8906, 8909. *Id.* at 2; and

C. The Employees' Life Insurance Fund (Insurance Fund) consists of funds withheld from employees plus specified contributions by the employing agencies. 5 U.S.C. 8707, 8708, 8714. *Id.* at 2.

Congress provides in annual appropriations acts, as part of the appropriations to the OPM ''such sums as may be necessary'' for payments, to retirees to the extent these funds are underfunded. See, e.g., Omnibus Consolidated and Emergency Supplemental Appropriations Act, FY 1999, 112 Stat. 2681–509, Pub. L. No. 105–277, Act of October 21, 1998; and Treasury and General Government Appropriations Act, 1998; 111 Stat. 1303, Pub. L. No. 105–61, Act of October 10, 1997.

The DOE General Counsel took cognizance of the fact that at present the four PMAs are recovering in rates the cost of their own direct contributions to the three OPM funds with respect to their own employees.

The DOE General Counsel cited the statute, 5 U.S.C. 8334 (a)(1), establishing the Civil Service Retirement and Disability Fund, stating that it provides that ''* * * government contributions for an employee shall be 'contributed from the appropriation or fund used to pay the employee' * * *'' Mem. Opinion, (July 1, 1998) at 3, and that the statutes, 5 U.S.C. 8708(a) and 8906(f)(1), creating the Insurance and Health Funds ''contain similar language,'' Mem. Opinion (July 1, 1998), at 3. Also, with ''* * * respect to Bureau of Reclamation (Bureau) and Corps of Engineers (Corps) employees that are involved in power operations and maintenance, the Bureau and Corps make the agency contributions to the OPM Funds directly.'' Mem. Opinion (July 1, 1998), at 3. The General Counsel also noted that the four PMAs were recovering in rates the cost of their own ''* * * direct contributions to the three OPM funds with respect to their own employees.'' See *id.* at 6. The General Counsel likewise noted that the PMAs were ''* * * recovering in rates the power-related operation and maintenance expenses of the Corps and the Bureau,'' including ''* * * contributions by those two agencies to the OPM funds to the extent that their employees conduct these functions.'' See *Id.* at 6. There was a problem by reason of the fact that (1) PMA rates ''* * * generally have not reflected the cost to the Government of the unfunded liability related to the Retirement Fund or post-retirement health and life insurance benefits,'' and (2) that these under-collected amounts are eleven percent in the case of Civil Service Retirement System employees. Mem. Opinion (July 1, 1998), at 1, 2 and 6.

The General Counsel reviewed the 1969 Congressional enactment, i.e., 5 U.S.C. 8348(f), which ''* * * addressed the problem of potential shortfalls in the sufficiency of funding for retiree benefits by authorizing a permanent indefinite appropriation for transfer of general funds from the Treasury.'' Mem. Opinion (July 1, 1998), at 2. The opinion noted that, ''* * * prior to 1969 * * *, the Retirement Fund had an unfunded deficit created ''by the Government's failure to contribute sufficient funds, the gradual increase in liability caused by past increased retirement benefits and salary increases.' '' Mem. Opinion (July 1, 1998), at 2. The General Counsel concluded, after an extensive review of all relevant factors, that the PMAs, including SEPA, have sufficient statutory authority to include unfunded costs in their rates and can deposit such funds into an appropriate Treasury account so as to effectively ''offset'' the said ''such sums as necessary'' appropriations made to the OPM funds from which these post-retirement costs are paid to retirees. Mem. Opinion (July 1, 1998), at 2, 7, 10, and 11.

The General Counsel noted that SEPA is required to set rates for electric power that cover costs, and the relevant statutes leave ''considerable discretion'' to the PMAs in applying this standard. The General Counsel cited Section 5 of the Flood Control Act of 1944, which applies to projects built by the Army Corps of Engineers, and power marketed by SEPA, provides that the rates ''shall be set 'having regard to the recovery * * * of the cost of producing and transmitting such electric energy.' '' '' 16 U.S.C. 825s. Mem. Opinion (July 1, 1998), at 3. The General Counsel emphasized that, under Section 12 of DOE Order No. RA6120.2, ''rates for a power system are adequate if, and only if, a power repayment study indicates that expected revenues are at least sufficient to recover, *inter alia*, '(all) costs of operating and maintaining the power system during the year in which such costs are incurred,' '' and that the said order further ''requires the PMAs to use accounting practices consistent with the principles prescribed by the Financial Accounting Standards Board.'' Mem. Opinion (July 1, 1998), at 5, citing Section 6 of RA6120.2. The General Counsel also observed that, ''* * * the requirement to set rates consistent with the DOE order has been judicially recognized,'' citing *Overton Power Dist. No. 5* v. *Watkins*, 829 F. Supp. 1523, 1530 n. 5 (D. Nev. 1993).'' Mem. Opinion (July 1, 1998), at 5.

The FASB, whose principles are referenced in DOE Order RA6120.2, in December 1985, established standards for financial reporting and accounting of employee pension benefits. The standard is Statement of Accounting Standards No. 87 (FAS 87). Under FAS 87, ''* * * 'a company must recognize future pension benefits earned by current employees as current pension costs rather than when the pension benefits are actually paid.' '' Southwestern Bell Telephone Company, Missouri Public Service Commission, (Case No. TC–93–224), 2 Mo. P.S.C. 3d 479; 1993 Mo. P.S.C. Lexis 62 (Dec. 17, 1993). See also, SEPA Georgia-Alabama-South Carolina System Rate Order No. SEPA–37, 63 Fed. Reg. 53,409, 53,413 (October 5, 1998). The ''* * * 'FASB 87 recognizes that unfunded pensions promised to current and retired employees are actual liabilities' * * * 'so that there must be recognition as a cost in any period of the actuarial present value of benefits attributed by the pension benefit formula to employee service during the period,' '' Southwestern Bell Telephone Co., at 5, f.n. 5. See also, SEPA Rate Order 37, 63 Fed. Reg. 53,413.

FAS No. 106, * * * ''changes generally accepted accounting principle * * * for post retirement, medical and life insurance benefits from accounting on a pay-as-you-go basis to an accrual basis.'' *Pennsylvania Public Utility*

[1] The Government's full costs of the post retirement benefits not recovered by employer-employee contributions to the OPM Funds are funded by permanent and mandatory ''such sums as may be necessary'' annual appropriations to these funds. There are three such funds.

Commission v. *Metropolitan Edison Company*. (Case No. R–00922314) 78 Penn, PUC 124; 141 P.U.R. 4th 336 (January 21, 1993). See also, SEPA Rate Order 37, 63 Fed. Reg. 53,413, supra. The General Counsel, citing Section 106 of FASB Statement No. 106, stated that ''FASB has recognized post-retirement benefits to be broader than simply pensions, issuing in December 1990 standards regarding post-retirement benefits other than pensions.'' Mem. Opinion (July 1, 1998), at 5, f.n. 5. The General Counsel, who noted that under FAS 106, ''* * * post retirement benefits include post-retirement health care and life insurance provided outside a pension plan to retirees,'' also stated that under FAS 106, ''* * * '(a) post retirement benefit is part of the compensation paid to an employee for services rendered.' Thus, under FAS 106, ''* * * 'the cost of providing the benefits should be recognized over those employee service periods.' This was ''* * * '(b)ecause the obligation to provide benefits arises as employees render services * * *' '' Mem. Opinion (July 1, 1998), at 5, f.n.5.

The DOE General Counsel emphasized that ''* * * FERC has recognized that the obligation for such retiree benefits is legitimately treated as a cost,'' and that ''FERC recognizes, as a component of cost-based rates, allowances for prudently-incurred costs of post-retirement benefits other than pensions (PBOPs) that are consistent with the accounting principles set forth in FASB Statement No. 106 (1991).'' Mem. Opinion (July 1, 1998), at 5, citing 61 FERC ¶61,330, at 62,200 (1992). Further, FERC ''interpreted the FASB statement to find 'that PBOP plans are deferred compensation arrangements whereby an employer promises to exchange future benefits for employees' current service and that their cost should be recognized over that employee's service periods for financial accounting and reporting purposes,' '' Mem. Opinion (July 1, 1998), at 6, citing 61 FERC at 62,199.

The DOE General Counsel found it very significant that FERC had concluded that, ''PBOP are a form of deferred compensation to employees for the services that they provide during their working years * * * Therefore, * * * the costs of providing these benefits are properly included in the cost of service during the period that the benefits are earned.'' Mem. Opinion (July 1, 1998), at 6, citing 61 FERC, at 62,201. Also, ''FERC's uniform system of accounts recognizes accruals to provide for pensions as an element of operation and maintenance expenses where the utility has, by contract, committed to a pension plan.'' Mem. Opinion (July 1, 1998), at 6, citing 18 CFR 101.926.

The General Counsel stated that, under case law precedent courts, ''* * * in reviewing actions of the PMA's, 'give' substantial deference to PMA interpretations of their organic statute,'' Mem. Opinion (July 1, 1998), citing *Department of Water & Power of the City of Los Angeles* v. *Bonneville Power Administration*, 759 F.2d. 684, 690–91 [9th Cir. 1985] and that, ''* * * the courts need not find that an agency's interpretation of its organic statutes '* * * is the only reasonable one, or even that it is the result [the court] would have reached had the question arisen in the first instance in judicial proceedings.' ''*Id.*, citing *Alcoa* v. *Central Lincoln Peoples*'' Util. Dist., 467 U. S. 380, 389 (1994). *Id.* at 4. The court ''* * * need only conclude that the interpretation is a reasonable one,'' *Id.* at 4, citing *Chevron* v. *Natural Resources Defense Council*, 467 U.S. at 845. The relevant statute, i.e., Section 5 of the Flood Control Act of 1944 and DOE Order RA 6120.2, provides that the PMAs must set rates that fully recover costs. Because the statutes provide little direction as to how the agencies are to interpret the term ''costs,'' this confers discretion upon DOE and SEPA. There is no indication that Congress intended to preclude the collection of full costs. Congress appropriates such sums as may be necessary to OPM to provide promised post retirement benefits.[2] Congress provides additional sums to OPM to supply benefits to retirees whose costs are only partially recovered by the Government agency and its employees' contributions to the OPM funds.

Chevron, Inc. v. *National Resources Defense Council, Inc.*, supra, is the landmark case in determining judicial deference to administrative interpretation of statutes. See Thomas W. Merrill, Judicial Deference to Executive Precedent, 101 Yale L.J. 969, 975 (1992). In Chevron, the Supreme Court adopted a two-step analysis for determining whether to defer to agency interpretation of statutes. See Chevron, 467 U.S. at 842–43. First, the court determines whether Congress has ''directly spoken'' on the issue. If the court concludes that the intent of Congress is clear, it must enforce the ascertained intent. See *id.* at 842–43. If the court determines that Congress has not directly spoken on the issue, or has been silent or ambiguous, the court merely asks whether the agency's interpretation is reasonable.

[2] See discussion at f.n. 1.

The General Counsel reasoned that, ''* * * post retirement benefits 'are part of the compensation paid to an employee for services rendered,' '' Mem. Opinion (July 1, 1998), at 5, f.n.5. The FASB '' 'believes that the cost of providing the benefits should be recognized over those employee service periods.' '' *Id.* citing FASB 106.03 and 106.18). The obligation ''* * * 'to provide benefits arises as employees render services * * *' '' *Id.* at 5, f.n. 5. Further, the DOE General Counsel was of the view that, ''On a practical, common sense level, there seems little room to dispute that the full amount of the retiree benefits is a 'cost' of hiring the employees to operate and maintain the PMA power systems'' and that, ''* * * recovering those costs in rates is entirely consistent with the congressional objective that the PMAs operate on a fiscally self-supporting basis.'' Mem. Opinion (July 1, 1998), at 5, citing *Department of Water & Power* v. *BPA*, 759 F.2d at 695 (9th Cir. 1985). It is entirely reasonable that agencies like SEPA be required to recover in their rates a component for costs attributable to retirement benefits of Federal employees producing power in the period covered by the rates, where such charges offset the appropriation of funds necessary to provide promised benefits to all retirees, including such future SEPA and Corps of Engineers retirees who are engaged in producing power sold by SEPA in the period covered by such rates.

The DOE General Counsel, concluding by way of summary, stated that the above-described DOE ratemaking policy, FASB 87 and FASB 106 Accounting Principles, and FERC ratemaking policy, ''indicate that the inclusion in rates 'in a given period of' all employer costs, 'including unfunded post-retirement costs' accruing in that period is a reasonable interpretation of the statutory obligation to recover costs.'' Mem. Opinion (July 1, 1998), at 6–7. Since DOE's General Counsel has upheld the reasonableness of the recovery of all such SEPA employer costs by the said July 1, 1998 Memorandum Opinion, SEPA must reject this objection.

Comment 5: Deposits into the Treasury of SEPA's charge for post-retirement benefits in rates violates the principle of cost-based rate making that there be a matching of costs collected with costs actually incurred. At page 19 of their May 10, 1999 comments, the Southeastern Federal Power Customers object to the collection of a separate post retirement component for post retirement benefits in rates. They stated:

Cost-based ratemaking requires a matching of costs collected with costs actually incurred. With respect to the PMA's, the collection of CSRS in rates, deposited in the Treasury, provides no assurance that amounts paid by ratepayers will match the benefits actually paid.

Response: The commenters fail to understand the matching principle in the context of FAS 106 as interpreted by FERC and the courts. The matching principle within ratemaking, as defined by Kohler's A Dictionary for Accountants, is '' * * * identifying related revenue and expense with the same accounting period.'' Accrual basis of accounting, as defined by the same dictionary, is, ''The method of accounting whereby revenues and expenses are identified with specific periods of time, such as a month or year * * *'' In the case of CSRS costs and post-retirement health benefits costs, the expenditures for these costs will be in the future after employees retire. However, accrual accounting would require that the current expenses should be recorded for these future costs.

Historically, for many organizations not including the Federal Government or SEPA, post-retirement benefit expenses have been recognized on a cash basis for both ratemaking and accounting purposes. Under the cash basis approach, the cost of post-retirement benefits ''provided to retirees (and their dependents and beneficiaries) is included in a utility's rates when the benefits are actually received by the retirees after retirement, i.e., when cash expenditures are made from general corporate assets in satisfaction of the company's obligation to provide such benefits.'' New England Power Company, 61 FERC ¶61,331, at 62,207. Under the cash method, these expenses are not recognized for ratemaking purposes (or for accounting purposes) during the current period if no cash outlay has been made. *Id.* at 62,207.

In December 1990, the FASB issued Statement of Financial Accounting Standards No. 106, Employers' Accounting for Postretirement Benefits Other than Pensions (FAS 106), which requires all companies subject to FASB accounting standards with over 500 plan participants to adopt accrual accounting for PBOP expenses no later than fiscal years beginning after December 15, 1992. FAS 106 applies to both regulated and unregulated companies. New England Power Company, 61 FERC at 62,207.

Under FAS 106, companies will be required, for financial reporting purposes, to recognize PBOP expenses as a current expense during the years an employee provides service to the employer (and, accordingly, earns such benefits) rather than when they are actually paid. FERC stated that ''FAS 106 requires that each accounting period be charged with the present value of the cost * * *'' [of post retirement benefits] ''* * * earned by the employees during that period.'' New England Power Company, 61 FERC ¶61,331, at 62,207.

FAS 106 instructed companies to adopt the accrual accounting method for determining post-retirement benefit. This method prescribes that companies must ''account now for the post-retirement benefits they expect to pay in the future to their current employees.'' Town of Norwood, 53 F.3d at 377, 378 (D.C. Cir. 1995).

The protestants are wrong when they assert that cost-based ratemaking requires a matching costs actually incurred. Such assertion is not necessarily so, in a case where the utility is attempting to apply FAS 106. In New England Power Company, the Commission recognized that the matching principle was not violated, even though rate payers in future rates would become liable for both costs of prior service, referred to as the transition obligation, and costs of current service, even though the costs of prior services far exceeded the cost of current service by nearly three and one-half times. See, 60 FERC ¶63,006, at 65,084 (A.L.J. initial decision) and 61 FERC ¶61,331 at 62,213–15.

The development of SEPA's rate does not involve the complicated step of calculating costs of prior service involved in their calculation of the transition obligation.[3] No such complication is presented by SEPA's rates. SEPA, under Administration policy, looks only to recovery of future costs for current service in rates to be approved as provided for in the subject Cumberland rates. As FERC stated:

When the accrual method is employed, the company first estimates the future liability of the PBOPs for the current employees, and then, collects the costs for that liability from current ratepayers.'' Note effects of Financial Accounting Standard 106 on Electric Ratemaking, 64, George Washington Law Review 1180, 1183 (1966) citing Town of Norwood, 53 F.3d 378–79.

SEPA need only take the first step in the accrual accounting system. This requires that the future costs for current service be calculated. The policy of matching has as its purpose to have ''ratepayers * * * pay for the production of the services they receive.'' Id., citing Town of Norwood, 53 F.3d 381 (D.C. Cir. 1995).

In SEPA's case, this means calculation of those future costs which are not recovered from the SEPA's and the employees' contributions to the Civil Service Retirement Fund, the Life Insurance Fund, and the Federal Employees Health Benefits Fund, described above. SEPA, in accordance with Administration policy, only recovers in this rate the costs of current service of those of its employees and the Corps of Engineers employees, who render services to the Cumberland rate payers over the period of the effectiveness of the Cumberland rate which are not recovered pursuant to the aforementioned laws. The OPM provides the instructions for the recording of accrual basis of costs for pension expense and for post-retirement health benefits. The cost factor applicable for CSRS employees for 1998 was 24.2% of the salary. The amount withheld from employees was 7.0% for part of the year and 7.25% for part of the year, and the amount paid by SEPA was 8.51% of the salary for the entire year. Therefore, the amount paid by the OPM was 9.69% for part of the year and 9.44% for the rest of the year. This 9.69% and 9.44% was multiplied times the salaries of the SEPA employees during the appropriate period for the employees during 1998. The post-retirement health benefits costs was computed by taking actual enrollment in FEHB on 10–1–97, 3–31–98, & 9–30–98. The number of enrollees on 10–1–97 and on 9–30–97 was multiplied times one (1), and the number of enrollees on 3–31–98 was multiplied times two (2). The total was divided by four (4), thereby creating an average enrollment for the year. The product is multiplied times the cost factor provided by the OPM of $2,493. Life benefits funded by OPM are computed by multiplying the salaries of the enrollees by two percent (2%). We have

[3] In the case of a private utility (but not of SEPA) an ''integral component of conversion to the accrual method is the calculation of (and recovery schedule for) the PBOP obligation associated with the past service of employees and retirees (known as the transition obligation). The transition obligation represents a company's accumulated liability for PBOP expenses for both present employees and current retirees during the period up to the date of conversion from a cash to an accrual method which had been deferred for future periods.''

Under FAS 106, companies have the option either to expense the transition obligation immediately or to recognize the expense over time (i.e., to amortize the transition obligation over a specified period of time). If recognized over time, a company has the further option to amortize the transition obligation on a straight-line basis over the average remaining service period of active plan participants over 20 years if greater. New England Power Company, 61 FERC ¶61,331 at 62,208.

The Federal Government has always been on an accrual basis and therefore no transition obligation is necessary.

confirmed that the Corps is using a similar method for fiscal year 1998 to determine their actual costs.

All SEPA must do is to take the first step, which is the establishment of reasonable estimate of the costs of post-retirement benefits currently earned by those utility employees serving SEPA's customers during the period of effectiveness of SEPA's proposed Cumberland rates, to the extent such costs are not covered in the future by said laws. SEPA has done this.

Comment 6: SEPA's CSRS proposal contains none of the customer protections that FERC has required.

Response: SEPA believes that the protection that FERC requires is that the cost be a true actual cost. The actual costs for Fiscal Year 1998 were $818,991, and SEPA has projected this amount for all future years. However, the actual cost that is recorded by SEPA and the Corps in future years will be the costs the customers actually repay according to the repayment recovery criteria set forth in DOE Order RA 6120.2.

Comment 7: Moneys collected go to the Treasury and are available for general purpose along with all other taxpayer receipts. They are not separately accounted for or held like Treasury payments or the illusory Social Security ''trust funds.'' They would be bookkeeping entries at best, nothing more. SEPA's proposal contains none of the protections that arise from ''irrevocable external trust funds[s]'' such as FERC has required to be established in the case of post-retirement benefits collected by regulated utilities from rate payers.

Response: SEPA can, under existing law, make no disposition of its post-retirement benefit collection, other than payment into miscellaneous receipts account. The DOE General Counsel recognizes that Section 5 of the Flood Control Act requires all SEPA revenues, ''received in rates to recover costs of unfunded liabilities would be deposited directly into the Treasury as miscellaneous receipts fund of the Treasury, and could not be expended without further appropriation.'' Mem. Opinion (July 1, 1998), at 7, citing 31 U.S.C. 3302(b). SEPA must comply with this requirement, as it is not subject to the Federal Power Act, pursuant to which FERC adopted such an irrevocable trust requirement for utilities subject to FERC jurisdiction. SEPA is exempt from FERC's Federal Power Act jurisdiction.

Payments of SEPA revenues into the Treasury, including the component thereof for unfunded retirement benefits, constitutes, in the view of DOE General Counsel, an ''offset'' to the appropriations to the OPM funds to meet the large unfunded liability of the Government for retirement benefits. Id. at 10 and 11. Congress meets this obligation by annual ''such sums as may be necessary'' appropriations to the Office of Personnel Management's Funds to assure retirement benefits are paid.

The Opinion addresses the authority of the Power Marketing Administrations (PMA) to collect in rates an amount that would offset the Government's full cost of post-retirement employee benefits. It stated, quoting the Testimony of William E. Flynn, Associate Director for Retirement and Insurance of the Office of Personnel Management Before the Senate Committee on Governmental Affairs, Subcommittee on Post Office and Civil Service (May 15, 1995), that:

> The elements of the historically under collected amounts are approximately 11 percent of salary for CSRS employees (cost of approximately 25 percent of salary less the 7 percent employee contribution and the 7 percent agency contribution), plus the FY 1998 accrual for the Government's share of post retirement health and life insurance benefits for current employees.

The DOE General Counsel, citing 5 U.S.C. 8348 (f), Pub. L. 91–93, Act of October 20, 1969, 83 Stat. 136, noted that, ''In 1969, Congress,'' had ''authorize(d) appropriations to the Retirement Fund to finance the unfunded liability'' for retiree benefits ''* * *by authorizing a permanent indefinite appropriation for transfer of general funds from the Treasury.'' Mem. Opinion (July 1, 1998), at 2.

Since FY 1998, Congress has, by a separate line item in Appropriations Acts to the Office of Personnel Management, pursuant to the authority of said 1969 Act, appropriated ''such sums as may be necessary'' to finance the unfunded Civil Service Retirement Fund obligation. See the Omnibus Consolidated and Emergency Supplemental Appropriations Act for FY 1999, Pub. L. 105–277, Act of October 21, 1998; 112 Stat 2681, 2681–509. This Act states:

> Payment to Civil Service Retirement and Disability Fund
>
> For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, such sums as may be necessary: Provided, The annuities authorized by the Act of May 29, 1994, as amended, and the Act of August 19, 1950, as amended (33 U.S.C. 771–775), may hereafter be paid out of the Civil Service Retirement and Disability Fund.'' *Id.*

See, also the Treasury and General Government Appropriations Act, for FY 1998 (PL 105–61; Act of October 10, 1997; 111 Stat. 1303) which states:

> Payment to Civil Service Retirement and Disability Fund
>
> For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, such sums as may be necessary: Provided, The annuities authorized by the Act of May 29, 1944, as amended, and the Act of August 19, 1950, as amended (33 U.S.C. 771–775), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

The underlying Office of Personnel Management Budget Justification for FY 1998, in support of the FY 1998 Appropriation to the Civil Service Retirement Fund to meet the annual unfunded liability, stated that this was a mandatory appropriation. OPM estimated that $8.3 billion would be needed for this purpose in FY 1998. See, Hearings Before a Subcommittee of House Committee on Appropriations on Treasury, Postal Service and General Government Appropriations for FY 1998, 105th Congress, 1st Session, 732 (1997).

The statement of Honorable Janice R Lachance, Director, OPM, before the Subcommittee on Treasury, Postal Service, and General Government Committee on Appropriations, U. S. House of Representatives on OPM's Fiscal Year 1999 Appropriations Request stated:

> ''* * * as mandated by the financing system established in 1969 by Public Law 91–93, we are requesting a 'such sums as may be necessary' appropriation for the civil service retirement and disability fund. This payment, which we estimate to be $8.7 billion, represents the 30-year amortization of liabilities resulting from changes since 1969 (principally pay increases) which affected benefits.'' See Hearings Before a Subcommittee of the House Committee on Appropriations on Treasury, Postal Service, and General Government Appropriations for fiscal year 1999, 105th Congress, 2d Session 636 (1998).

The General Counsel noted the other two funds that provide benefits to retirees. These are funds for health and insurance benefits, which are likewise underfunded. Congress, likewise, makes provisions for them. The said FY 1999 Appropriations Act, appropriating funds to OPM, makes appropriations for the unfunded health and life insurance benefits. This Act provides:

> Government Payment for Annuitants, Employees Health Benefits
>
> For payment of Government contributions with respect to retired employees, as

authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, such sums as may be necessary.

See Public Law 105–277; Act of October 21, 1998, 112 Stat 2681–509.

Government Payment for Annuitants, Employee Life Insurance

For payment of Government contributions with respect to employees retiring after December 31, 1989, as required by chapter 87 of title 5, United States Code, such sums as may be necessary.

Id. at 112 Stat at 2681–509.

The FY 1999 Budget Statement of OPM Director Lachance stated:

''As always, the OPM budget request includes mandatory appropriations to pay the government's contributions to the federal employee life insurance and health benefits programs on behalf of annuitants since those enrollees have no employing agencies to contribute the government's share for them. We are requesting a 'such sums as may be necessary' appropriation for each of these accounts because of their mandatory nature. We estimate that $35.2 million will be required for the 323,000 non-postal annuitants retiring after 1989 and electing post retirement life insurance, while an estimated $4.6 billion will be needed to finance the government's contribution toward health benefits coverage for the 1.9 million participating annuitants.'' See FY 1999 House Treasury , Postal Service, and General Government Appropriations Hearings, supra, at 635–636.

So long as Congress continues to provide all retirees these health and life insurance benefits, SEPA's retirees and Corps retirees engaged in the production of power, will not suffer.

As indicated, payments of SEPA revenues into the Treasury, including the component thereof for unfunded retirement benefits, constitutes in the view of DOE's General Counsel an offset against the large unfunded liability of the government for retirement benefits. The General Counsel stated:

All PMA rate revenues are required to be deposited in a statutorily specified fund or account of the Treasury. Pursuant to Flood Control Act requirements, monies received from power rates to recover costs of unfunded liabilities from power marketed by SEPA * * * would be deposited into the general fund of the Treasury as miscellaneous receipts. Payments into the general fund from these sources would therefore offset the appropriation for unfunded liability made to the OPM funds.

See Mem. Opinion (July 1, 1998), at 10.

The comments are a basic attack against the Administration decision to charge ratepayers for unfunded post-retirement benefit liabilities. So long as Congress honors the federal government's commitments to all its retirees, SEPA's retirees and Corps retirees engaged in the production of power will receive the benefits as promised. The only difference is that SEPA's customers will bear the total estimated future government cost thereof attributable to current SEPA and Corps employees providing electric service to SEPA customers who retire in the future.

The DOE General Counsel Opinion states in detail how Administrator policy respecting post-retirement benefits in PMA rates may be legally implemented. SEPA must prepare its rates accordingly. It must reject the Southeastern Power Customers' challenge to SEPA's treatment of post-retirement benefits, as they embody Administration policy as set forth in the DOE General Counsel's Opinion.

Comment 8: SEPA's imposition of the post-benefit retirement charge fails to meet the requirement of the FERC rule that funds so collected be placed in an irrevocable trust.

Response: SEPA is not bound by such FERC rule, which is applicable to utilities subject to the Federal Power Act. See New England Power Company, 61 FERC ¶ 61,331, at 62,213 (1992). FERC stated:

We will require, however, that NEP use external funding in irrevocable trusts for all amounts collected for PBOP obligations as a condition of rate recovery under the accrual method. External funding in irrevocable trust will remove any incentive for NEP to overestimate its costs because NEP will not have use of the funds for any other corporate purpose. Moreover, external funding will ensure that the revenues collected will be available for their intended purpose—to provide post retirement benefits to employees. Additionally, to the extent that overfunding ever occurs, NEP is also directed to reserve any over-collection expressly for the benefit of customers, through reduced expense projections in subsequent filings. *Id.* at 62,213 (footnotes omitted).

The jurisdiction conferred by the Federal Power Act (FPA) (18 U.S.C. 824 *et seq.*) upon FERC to regulate electric and natural gas public utilities does not apply to the PMAs. Jurisdiction to review PMA rates is conferred and limited by a delegation from the Secretary of Energy to FERC. See Department of Energy Delegation Order No. 0204–108, as amended. 58 FR 59716 (November 10, 1993). Hence, the foregoing rule has no application to SEPA. All SEPA can do under applicable law, is to place the post-retirement benefits it receives into miscellaneous receipts account of the treasury. This becomes an offset against annual ''such sums as may be necessary'' appropriations to OPM to finance unfunded but promised benefits. Mem. Opinion (July 1, 1998), at 10–11.

SEPA is required by Flood Control Act of 1944, as well as the Miscellaneous Receipts Act (31 U.S.C. 33020), to deposit all monies received to the Treasury of United States as miscellaneous receipts. It is, therefore, not possible for SEPA to establish an ''irrevocable external trust fund'' for these monies, as FERC has in some instances required of regulated electric and gas public utilities.

Comment 9: The data relied upon by SEPA illustrates how the proposed rate increase fails to comply with RA6120.2.

Response: RA 6120.2 says SEPA must recover costs. The Legal Opinion defines CSRS costs as reasonable costs. See response to 1 above.

Comment 10: Because SEPA has failed to incorporate any provisions that would adjust or modify CSRS rates on an annual basis which would ensure a more accurate representation of CSRS costs to SEPA, the customers have no assurances that the costs of operating and maintaining the system are incurred during the year in which the rates are effective.

Response: The customer will pay the actual CSRS costs. See response to 6 above.

Comment 11: Because a significant component of the CSRS costs includes cost recovery for Corps employees, the SeFPC requested background information from the Corps pertaining to the Corps's calculations of CSRS costs.

Response: The Corps has provided SEPA actual costs for FY 1998, which were used to estimate costs in future years.

Comment 12: SeFPC notes that there appear to be inconsistencies in the determination of Full-Time Equivalents (''FTEs''). SeFPC wishes to raise this specific issue to express its overall concern with its inability to determine (based upon the data provided to date) whether the CSRS costs are reasonable and whether the assumptions are justified. Absent such determination, and for other reasons explained by SeFPC, SEPA should not be allowed to flow-through the CSRS cost to its customers.

Response: The Corps and SEPA have determined actual costs of CSRS of $818,991 for fiscal year 1998.

Comment 13: SeFPC submits that recovery of CSRS costs for Corps employees is without legal basis and constitutes an illegal augmentation of both the Corps' and OPM's appropriations. SeFPC asks SEPA to explain how the discretion afforded by the Flood Control Act of 1944 allows

DOE to augment the appropriations of the Corps and OPM without violating statutory restrictions against augmenting appropriations. Government is in essence ''double-dipping'' into taxpayer's pockets to pay the costs of the retirement program.

Response: The legal basis for the recovery of costs of Corps and SEPA employees is set forth in SEPA's response to Comment 4.

There is no double dipping by the Government of the taxpayer. The simple fact of the matter is that employer-employee contribution to the three OPM funds fails to recover benefits of all Federal retirees, including SEPA employees and Corps employees whose efforts are attributable to production of Cumberland power. Congress must supply from general revenues of the Government the unfunded portion of such costs. SEPA's inclusion of component in its rates for unfunded liabilities, by reason of the fact that SEPA's revenues are deposited into miscellaneous receipts in the Treasury, offsets the amount that must be appropriated.

Congress places no dollar limits on appropriations from the general fund to assure full funding of these employee retirement benefits. SEPA's inclusion in rates of a component to recover unfunded retirement properly assigns to the SEPA customers the full costs of the post-retirement benefits of Federal employees producing the power which such customers consume. This reduces the burden on Federal taxpayers, and is justified by reason of the fact that SEPA customers enjoy the benefits of SEPA power.

There is no augmentation of appropriations. Congress appropriates ''such sums as may be necessary'' to fully fund retirement benefits.

The Flood Control Act requires that SEPA's power revenues be deposited in the miscellaneous receipts of the Treasury. The Miscellaneous Receipts Act is a general statute of like effect. The purpose of the Miscellaneous Receipts Act is to ensure that the Congress retains control of the public purse, and to effectuate Congress' constitutional authority to appropriate monies. See in Matter of Nuclear Regulatory Commission's Authority to Mitigate Civil Penalties, B–238419, 70 Comp. Gen. 17; 1990 U.S. Comp. Gen. Lexis 1060 (October 9, 1990).

The reason for the prohibition against augmentation of appropriation is to protect Congress' power of the purse and its prerogative to determine the level at which an agency of Federal programs may operate. See Nolan: Public Interest, Private Income: Conflicts and Control Unit on the Outside Income of Government Officials, 87 Nw. U.L. Rev. 57,122 (1992). The prohibition against augmentation of appropriation would not apply. Congress places no dollar limit on what OPM spends. OPM is free to draw from the Treasury such sums as may be necessary to pay the retirement benefits Congress has promised Federal retirees. Use of SEPA's component for unfunded retirement benefits in rates, as a source to pay these benefits, does not violate the power of Congress to determine how much shall be spent. Congress has agreed to allow OPM to spend what is needed to pay promised retirement benefits.

Comment 14: Until SEPA clears up the glaring discrepancies with existing legal authority to recover CSRS costs for SEPA and the Corps and sets forth a clear understanding of how the estimated figures for the Corps employees was determined and relates to the actual costs of the Corps in the future, SeFPC submits that the proposed rate increase should not include CSRS costs at this time.

Response: The Department of Energy has determined that it is appropriate for the PMA's to include CSRS costs in rates charged to customers. Therefore, SEPA has included the costs in the repayment study and thereby included them in rates that SEPA proposes to charge to the customers.

Comment 15: SeFPC submits that the statutory duty for the Corps to collect and pay retirement benefits obviates the need for SEPA to recover CSRS costs for the Corps. In different terms, if the federal government already imposes an obligation of the Corps to deduct funds for benefits, in addition to paying the remaining balance from appropriations, SEPA has imposed a burden on the customers of the Cumberland System of Projects.

Response: SEPA interprets Section 5 of the Flood Control Act of 1944, RA6120.2 and FAS 87 and 106 to mean that the full cost of post-retirement benefits of Corps of Engineers and SEPA employees, engaged in the production of power which SEPA markets, must be covered in SEPA's rates. As demonstrated in Responses to Comment 5, the statutorily-mandated deductions for retirement benefits and employee contributions for these purposes do not fully recover the costs or retirement benefits. To meet the gap, SEPA is of the view that it must add a component to recoup in rates being established by this rate order to fund the cost of future unfunded retirement benefits attributable to its current employees and current Corps employees who are engaged in the production of power during the effective period of such rate. See Response to Comment 5.

Comment 16: Due process of law, as interpreted by United States Circuit Court of Appeals decisions, i. e., *Sacred Heart Medical Center* vs. *Sullivan,* 958 F.2d 537 (3rd Cir. 1992) (holding that an agency must offer a ''reasoned justification'' for the change in its interpretation of statute or modification of its policy); and *Mobil Oil Corporation* vs. *EPA,* 871 F. 2d 129 (D. C. Cir. 1989) (requiring an agency to acknowledge and explain the departure from its prior views) obligates SEPA to ''* * * explain how the proposal to collect pension and health benefit costs comports with existing FASB guidance which requires the creation of separate accounts.''

Response: We interpret this due process of law assertion to at least require an explanation by SEPA why SEPA did not establish an irrevocable trust from the portion of SEPA's Cumberland rate attributable to unfunded retirement benefits earned by current SEPA and Corps employees who market and produce the power SEPA sells.

The use of revenues from SEPA rates is governed by the Flood Control Act of 1944 which provides that ''* * * [a]ll moneys received from * * * (electric) sales shall be deposited in the Treasury of the United States as miscellaneous receipts.'' 16 U. S. C. 825s. Because SEPA is required by Flood Control Act of 1944 as well as the Miscellaneous Receipts Act (31 U. S. C. 3302) to deposit all monies received to the Treasury of United States as miscellaneous receipts, it is not possible for SEPA to establish an ''irrevocable external trust fund'' for these monies as FERC has in some instances required of regulated electric and gas public utilities.

Such ''sums as may be necessary'', in the view of the Administration and DOE General Counsel Sullivan, offset the general fund of the Treasury made to the OPM Funds for unfunded retirement liabilities. Given the permanent and mandatory nature of the ''such sums as may be necessary'' appropriations to the three OPM funds identified in SEPA's Response to Comments 1, 4, 5, and 7. The use of such funds to ''offset'' appropriations of unfunded liabilities achieves the same purpose that an irrevocable trust would, were it legally possible for SEPA to create such a trust. Mem. Opinion (July 1, 1998), at 10-11. To the extent that an explanation is required of SEPA why it decided to include unfunded benefit costs in rates, SEPA states by way of historical

explanation. SEPA did not, prior to 1998, include in its rate the unfunded portion of employee benefit costs. It did so in the Georgia-Alabama-South Carolina (GA–AL–SC) rates in 1998. At that time SEPA first proposed recovery of CSRS costs. The rate increase for the Georgia-Alabama-South Carolina system was considered by FERC in Docket No. EF98–3011-000. FERC approved the inclusion of unfunded retirement benefits in SEPA rates in United States Department of Energy—Southeastern Power Administration, 86 FERC ¶ 61,195 (1999). On April 23, 1999, the Commission issued an order in this docket granting rehearing for the limited purpose of further consideration of SeFPC's request.

SEPA continues to include the unfunded portion of its employee benefit costs in the case of the subject Cumberland rate order for many of the same reasons. See In the Matter of Southeastern Power Administration-Georgia-Alabama-South Carolina System Power Rates, Rate Order No. SEPA–37, signed by Deputy Secretary Elizabeth A. Moler, on September 18, 1998, 63 Fed. Reg. 53409 (October 5, 1998). It also does so in light of Administration policy, as set forth in and confirmed by General Counsel Mary Anne Sullivan's July 1, 1998 Memorandum Opinion, referenced above in SEPA's responses to Comments 4.

The Financial Accounting Standards Board (FASB) in December 1985 Statement of Accounting Standards N. 87 (FAS 87) states that, under FAS 87, ''* * * 'a company must recognize future pension benefits earned by current employees as current pension costs rather than when the pension benefits are actually paid.' '' See Southeastern Power Administration-Georgia-Alabama-South Carolina System Power Rates, Rate Order No. SEPA–37 at 53,413. In 1991, the Financial Accounting Standards Board issued FAS No. 106, (''FAS 106''). This ''* * * 'changes generally accepted accounting principles * * * for post retirement, medical and life insurance benefits from accounting on a pay-as-you-go basis to an accrual basis.' '' *Id.* at 53,413.

The DOE General Counsel has concluded that under FASB 106.18, ''* * * 'a post retirement benefit is part of the compensation paid to an employee for services rendered * * *' '' and that, under FASB 106.03, ''* * * 'the cost of providing the benefits should be recognized over those employee service periods.' '' Mem. Opinion (July 1, 1998), at 5, f.n.5. In the view of SEPA and the DOE General Counsel, under Section 5 of the Flood Control Act of 1944, DOE Order RA6120.2 and the said FASB accounting principles, SEPA has an obligation to provide post-retirement benefits in its rates as its employees and those of the Corp render services by producing power that SEPA sells.

The Cumberland rates, as were the Georgia-Alabama-South Carolina rates, were prepared by SEPA in light of DOE's guidance, both as to interpretation of statues and DOE orders, as well as in accordance with Administration policy.

6. Rate Implementation

Comment: KU Area Preference Customers request that SEPA include an express commitment, as part of its implementation of the rates, that SEPA will refund and flow through to its customers any and all reductions that are achieved in TVA's charges to SEPA.

Response: SEPA cannot make a commitment regarding any future rate filings; however, SEPA will be more than willing to listen to any suggestions as to how any reductions in TVA charges to SEPA should be handled.

Environmental Impact

SEPA has reviewed the possible environmental impacts of the rate adjustment under consideration and has concluded that, because the adjusted rates would not significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, the proposed action is not a major federal action for which preparation of an Environmental Impact Statement is required.

Availability of Information

The rates hereinafter confirmed and approved on an interim basis, together with supporting documents, will be submitted promptly to the Federal Energy Regulatory Commission for confirmation and approval on a final basis for a period beginning on July 1, 1999, and ending no later than June 30, 2004.

Order

In view of the foregoing and pursuant to the authority vested in me as the Secretary of Energy, I hereby confirm and approve on an interim basis, effective July 1, 1999, attached Wholesale Power Rate Schedules CBR–1–D, CSI–1–D, CEK–1–D, CM–1–D, CC–1–E, CK–1–D, CTV–1–D, and SJ–1–A. The Rate Schedules shall remain in effect on an interim basis through June 30, 2004, unless such period is extended or until the FERC confirms and approves them or substitutes Rate Schedules on a final basis.

Dated: June 29. 1999.

Bill Richardson,

Secretary.

Wholesale Power Rate Schedule CBR–1–D

Availability

This rate schedule shall be available to Big Rivers Electric Corporation and includes the City of Henderson, Kentucky, (hereinafter called the Customer).

Applicability

This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest and Cordell Hull Projects (all of such projects being hereinafter called collectively the ''Cumberland Projects'') and sold in wholesale quantities.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of sixty hertz. The power shall be delivered at nominal voltages of 13,800 volts and 161,000 volts to the transmission system of Big Rivers Electric Corporation.

Points of Delivery

Capacity and energy delivered to the Customer will be delivered at points of interconnection of the Customer at the Barkley Project Switchyard, at a delivery point in the vicinity of the Paradise steam plant and at such other points of delivery as may hereafter be agreed upon by the Government and TVA.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $2.900 per kilowatt/month of total contract demand

Energy Charge: None

Energy To Be Furnished by the Government

The Government shall make available each contract year to the customer from the Projects through the customer's interconnections with TVA and the customer will schedule and accept an allocation of 1,500 kilowatt-hours of energy delivered at the TVA border for each kilowatt of contract demand. A contract year is defined as the 12 months beginning July 1 and ending at midnight June 30 of the following

calendar year. The energy made available for a contract year shall be scheduled monthly such that the maximum amount scheduled in any month shall not exceed 240 hours per kilowatt of the customer's contract demand and the minimum amount scheduled in any month shall not be less than 60 hours per kilowatt of the customer's contract demand. The customer may request and the Government may approve energy scheduled for a month greater than 240 hours per kilowatt of the customer's contract demand; provided, that the combined schedule of all SEPA customers outside TVA and served by TVA does not exceed 220 hours per kilowatt of the total contract demands of these customers.

Billing Month

The billing month for power sold under this schedule shall end at 2,400 hours CDT or CST, whichever is currently effective, on the last day of each calendar month.

Conditions of Service

The customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of TVA on its side of the delivery point.

Service Interruption

When delivery of capacity is interrupted or reduced due to conditions on the Administrator's system beyond his control, the Administrator will continue to make available the portion of his declaration of energy that can be generated with the capacity available.

For such interruption or reduction due to conditions on the Administrator's system which have not been arranged for and agreed to in advance, the demand charge for capacity made available will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\text{Monthly capacity charge}}{\text{number of days in billing month}} \times \frac{\text{Contract demand}}{\text{880,000 kilowatts}}$$

July 1, 1999

Wholesale Power Rate Schedule CSI–1–D

Availability

This rate schedule shall be available to Southern Illinois Power Cooperative (hereinafter the Customer).

Applicability

This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest and Cordell Hull Projects (all of such projects being hereinafter called collectively the ''Cumberland Projects'') and sold in wholesale quantities.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of sixty hertz. The power shall be delivered at nominal voltages of 13,800 volts and 161,000 volts to the transmission system of Big Rivers Electric Corporation.

Points of Delivery

Capacity and energy delivered to the Customer will be delivered at points of interconnection of the Customer at the Barkley Project Switchyard, at a delivery point in the vicinity of the Paradise steam plant and at such other points of delivery as may hereafter be agreed upon by the Government and TVA.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $2.900 per kilowatt/ month of total contract demand
Energy Charge: None

Energy To Be Furnished by the Government

The Government shall make available each contract year to the customer from the Projects through the customer's interconnections with TVA and the customer will schedule and accept an allocation of 1,500 kilowatt-hours of energy delivered at the TVA border for each kilowatt of contract demand. A contract year is defined as the 12 months beginning July 1 and ending at midnight June 30 of the following calendar year. The energy made available for a contract year shall be scheduled monthly such that the maximum amount scheduled in any month shall not exceed 240 hours per kilowatt of the customer's contract demand and the minimum amount scheduled in any month shall not be less than 60 hours per kilowatt of the customer's contract demand. The customer may request and the Government may approve energy scheduled for a month greater than 240 hours per kilowatt of the customer's contract demand; provided, that the combined schedule of all SEPA customers outside TVA and served by TVA does not exceed 220 hours per kilowatt of the total contract demands of these customers.

Billing Month

The billing month for power sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective, on the last day of each calendar month.

Service Interruption

When delivery of capacity is interrupted or reduced due to conditions on the Administrator's system beyond his control, the Administrator will continue to make available the portion of his declaration of energy that can be generated with the capacity available.

For such interruption or reduction due to conditions on the Administrator's system which have not been arranged for and agreed to in advance, the demand charge for capacity made available will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\text{Monthly capacity charge}}{\text{number of days in billing month}} \times \frac{\text{Contract demand}}{\text{880,000 kilowatts}}$$

July 1, 1999

Wholesale Power Rate Schedule CEK–1–D

Availability

This rate schedule shall be available to East Kentucky Power Cooperative (hereinafter called the Customer).

Applicability

This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Percy Priest and Cordell Hull Projects (all of such projects being hereinafter called collectively the ''Cumberland Projects'') and power available from the Laurel Project and sold in wholesale quantities.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of sixty hertz. The power shall be delivered at nominal voltages of 161,000 volts to the transmission systems of the Customer.

Points of Delivery

The points of delivery will be the 161,000 volt bus of the Wolf Creek Power Plant and the 161,000 volt bus of the Laurel Project. Other points of delivery may be as agreed upon.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule from the Cumberland Projects shall be:

Demand charge: $2.900 per kilowatt/month of total contract demand

Energy Charge: None

Energy To Be Furnished by the Government

The Government shall make available each contract year to the customer from the Projects through the customer's interconnections with TVA and the customer will schedule and accept an allocation of 1,500 kilowatt-hours of energy delivered at the TVA border for each kilowatt of contract demand plus 369 kilowatt-hours of energy delivered for each kilowatt of contract demand to supplement energy available at the Laurel Project. A contract year is defined as the 12 months beginning July 1 and ending at midnight June 30 of the following calendar year. The energy made available for a contract year shall be scheduled monthly such that the maximum amount scheduled in any month shall not exceed 240 hours per kilowatt of the customer's contract demand and the minimum amount scheduled in any month shall not be less than 60 hours per kilowatt of the customer's contract demand. The customer may request and the Government may approve energy scheduled for a month greater than 240 hours per kilowatt of the customer's contract demand; provided, that the combined schedule of all SEPA customers outside TVA and served by TVA does not exceed 220 hours per kilowatt of the total contract demands of these customers.

Billing Month

The billing month for power sold under this schedule shall end at 2,400 hours CDT or CST, whichever is currently effective, on the last day of each calendar month.

Conditions of Service

The customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of TVA on its side of the delivery point.

Service Interruption

When delivery of capacity is interrupted or reduced due to conditions on the Administrator's system beyond his control, the Administrator will continue to make available the portion of his declaration of energy that can be generated with the capacity available.

For such interruption or reduction due to conditions on the Administrator's system which have not been arranged for and agreed to in advance, the demand charge for capacity made available will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\text{Monthly capacity charge}}{\text{number of days in billing month}} \times \frac{\text{Contract demand}}{\text{880,000 kilowatts}}$$

July 1, 1999

Wholesale Power Rate Schedule CM–1–D

Availability

This rate schedule shall be available to the South Mississippi Electric Power Association and Municipal Energy Agency of Mississippi (hereinafter called the Customers).

Applicability

This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest and Cordell Hull Projects (all of such projects being hereinafter called collectively the ''Cumberland Projects'') and sold in wholesale quantities.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of sixty hertz. The power shall be delivered at nominal voltages of 161,000 volts to the transmission systems of Mississippi Power and Light.

Points of Delivery

The points of delivery will be at interconnection points of the Tennessee Valley Authority system and the Mississippi Power and Light system. Other points of delivery may be as agreed upon.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $2.900 per kilowatt/month of total contract demand

Energy Charge: None

Energy To Be Furnished by the Government

The Government shall make available each contract year to the Customer from the Projects through the Customer's interconnections with TVA and the Customer will schedule and accept an allocation of 1,500 kilowatt-hours of energy delivered at the TVA border for each kilowatt of contract demand. A contract year is defined as the 12 months beginning July 1 and ending at midnight June 30 of the following calendar year. The energy made available for a contract year shall be scheduled monthly such that the maximum amount scheduled in any month shall not exceed 240 hours per

kilowatt of the Customer's contract demand and the minimum amount scheduled in any month shall not be less than 60 hours per kilowatt of the Customer's contract demand. The Customer may request and the Government may approve energy scheduled for a month greater than 240 hours per kilowatt of the Customer's contract demand; provided, that the combined schedule of all SEPA Customers outside TVA and served by TVA does not exceed 220 hours per kilowatt of the total contract demands of these Customers.

In the event that any portion of the capacity allocated to the Customers is not initially delivered to the Customers as of the beginning of a full contract year, the 1500 kilowatt hours shall be reduced 1/12 for each month of that year prior to initial delivery of such capacity.

Billing Month

The billing month for power sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective on the last day of each calendar month.

Service Interruption

When delivery of capacity is interrupted or reduced due to conditions on the Administrator's system beyond his control, the Administrator will continue to make available the portion of his declaration of energy that can be generated with the capacity available.

For such interruption or reduction due to conditions on the Administrator's system which have not been arranged for and agreed to in advance, the demand charge for capacity made available will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\text{Monthly capacity charge}}{\text{number of days in billing month}} \times \frac{\text{Contract demand}}{\text{880,000 kilowatts}}$$

July 1, 1999

Wholesale Power Rate Schedule CC–1–E

Availability

This rate schedule shall be available to public bodies and cooperatives served through the facilities of Carolina Power & Light Company, Western Division (hereinafter called the Customers).

Applicability

This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest and Cordell Hull Projects (all of such projects being hereinafter called collectively the ''Cumberland Projects'') and sold in wholesale quantities.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of sixty hertz. The power shall be delivered at nominal voltages of 161,000 volts to the transmission system of Carolina Power & Light Company, Western Division.

Points of Delivery

The points of delivery will be at interconnecting points of the Tennessee Valley Authority system and the Carolina Power & Light Company, Western Division system. Other points of delivery may be as agreed upon.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $3.301 per kilowatt/month of total contract demand
Energy Charge: None
Transmission Charge: $1,2828 per kilowatt of total contract demand

The transmission rate is subject to annual adjustment on April 1 of each year and will be computed subject to the formula in Appendix A attached to the Government-Carolina Power & Light Company contract.

Energy To Be Furnished by the Government

The Government will sell to the customer and the customer will purchase from the Government energy each billing month equivalent to a percentage specified by contract of the energy made available to Carolina Power & Light Company (less six percent (6%) losses). The Customer's contract demand and accompanying energy allocation will be divided pro rata among its individual delivery points served from the Carolina Power & Light Company's, Western Division transmission system.

Billing Month

The billing month for power sold under this schedule shall end at 2,400 hours CDT or CST, whichever is currently effective, on the last day of each calendar month.

July 1, 1999

Wholesale Power Rate Schedule CK–1–D

Availability

This rate schedule shall be available to public bodies served through the facilities of Kentucky Utilities Company, (hereinafter called the Customers.)

Applicability

This rate schedule shall be applicable to electric capacity and energy available from the Dale Hollow, Center Hill, Wolf Creek, Cheatham, Old Hickory, Barkley, J. Percy Priest and Cordell Hull Projects (all of such projects being hereinafter called collectively the ''Cumberland Projects'') and sold in wholesale quantities.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of sixty hertz. The power shall be delivered at nominal voltages of 161,000 volts to the transmission systems of Kentucky Utilities Company.

Points of Delivery

The points of delivery will be at interconnecting points between the Tennessee Valley Authority system and the Kentucky Utilities Company system. Other points of delivery may be as agreed upon.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $2.900 per kilowatt/month of total contract demand
Energy Charge: None
Additional Energy Charge: 8.631 mills per kilowatt-hour

Energy To Be Furnished by the Government

The Government shall make available each contract year to the Customer from the Projects through the Customer's interconnections with TVA and the Customer will schedule and accept an

allocation of 1,500 kilowatt-hours of energy delivered at the TVA border for each kilowatt of contract demand. A contract year is defined as the 12 months beginning July 1 and ending at midnight June 30 of the following calendar year. The energy made available for a contract year shall be scheduled monthly such that the maximum amount scheduled in any month shall not exceed 240 hours per kilowatt of the Customer's contract demand and the minimum amount scheduled in any month shall not be less than 60 hours per kilowatt of the Customer's contract demand. The Customer may request and the Government may approve energy scheduled for a month greater than 240 hours per kilowatt of the Customer's contract demand; provided, that the combined schedule of all SEPA Customers outside TVA and served by TVA does not exceed 220 hours per kilowatt of the total contract demands of these Customers. In the event that any portion of the capacity allocated to the Customers is not initially delivered to the Customers as of the beginning of a full contract year, the 1500 kilowatt hours shall be reduced 1/12 for each month of that year prior to initial delivery of such capacity.

For billing purposes, each kilowatt of capacity will include 1500 kilowatt-hours energy per year. Customers will pay for additional energy at the additional energy rate.

Billing Month

The billing month for power sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective on the last day of each calendar month.

July 1, 1999

Wholesale Power Rate Schedule CTV–1–D

Availability

This rate schedule shall be available to the Tennessee Valley Authority (hereinafter called TVA).

Applicability

This rate schedule shall be applicable to electric capacity and energy generated at the Dale Hollow, Center Hill, Wolf Creek, Old Hickory, Cheatham, Barkley, J. Percy Priest, and Cordell Hull Projects (all of such projects being hereafter called collectively the ''Cumberland Projects'') and the Laurel Project sold under agreement between the Department of Energy and TVA.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a frequency of approximately 60 Hertz at the outgoing terminals of the Cumberland Projects' switchyards.

Monthly Rates

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge: $1.434 per kilowatt/month of total demand as determined by the agreement between the Department of Energy and TVA.
Energy Charge: None
Additional Energy Charge: 8.631 mills per kilowatt-hour

Energy To Be Made Available

The Department of Energy shall determine the energy that is available from the projects for declaration in the billing month.

To meet the energy requirements of the Department of Energy's customers outside the TVA area (hereinafter called Other Customers), 749,400 megawatt-hours of net energy shall be available annually (including 36,900 megawatt-hours of annual net energy to supplement energy available at Laurel Project) provided, that if additional energy is required to make a marketing arrangement viable for other customers which do not own generating facilities and which are within service areas of Kentucky Utilities Company and Carolina Power & Light Company, Western Division, such additional energy required shall be made available from the Cumberland Projects and shall not exceed 300 kilowatt-hours per kilowatt per year. The energy requirement of the Other Customers shall be available annually, divided monthly such that the maximum available in any month shall not exceed 220 hours per kilowatt of total Other Customers contract demand, and the minimum amount available in any month shall not be less than 60 hours per kilowatt of total Other Customers demand.

In the event that any portion of the capacity allocated to Other Customers is not initially delivered to the Other Customers as of the beginning of a full contract year, (July through June), the 1500 hours, plus any such additional energy required as discussed above, shall be reduced 1/12 for each month of that year prior to initial delivery of such capacity.

The energy scheduled by TVA for use within the TVA System in any billing month shall be the total energy delivered to TVA less (1) an adjustment for fast or slow meters, if any, (2) an adjustment for Barkley-Kentucky Canal of 15,000 megawatt-hours of energy each month which is delivered to TVA under the agreement from the Cumberland Projects without charge to TVA, (3) the energy scheduled by the Department of Energy in said month for the Other Customers plus losses of two (2) percent, and (4) station service energy furnished by TVA.

Each kw of capacity received by TVA includes 1500 kwh of energy. Energy received in excess of 1500 kwh will be subject to an additional energy charge identified in the monthly rates section of this rate schedule.

Billing Month

The billing month for capacity and energy sold under this schedule shall end at 2400 hours CDT or CST, whichever is currently effective, on the last day of each calendar month.

Contract Year

For purposes of this rate schedule, a contract year shall be as in Section 13.1 of the Southeastern Power Administration—Tennessee Valley Authority Contract.

Service Interruption

When delivery of capacity to TVA is interrupted or reduced due to conditions on the Department of Energy's system which are beyond its control, the Department of Energy will continue to make available the portion of its declaration of energy that can be generated with the capacity available.

For such interruption or reduction (exclusive of any restrictions provided in the agreement) due to conditions on the Department of Energy's system which have not been arranged for and agreed to in advance, the demand charge for scheduled capacity made available to TVA will be reduced as to the kilowatts of such scheduled capacity which have been so interrupted or reduced for each day in accordance with the following formula:

The agreement capacity related to the 76,000 kilowatts of capacity allocated to the Other Customers in the Carolina Power & Light Company and Kentucky Utilities service areas shall, irrespective of sale to Other Customers, remain in effect in the formula throughout the term of this rate schedule.

Power Factor

TVA shall take capacity and energy from the Department of Energy at such power factor as will best serve TVA's system from time to time; provided, that TVA shall not impose a power factor of

less than .85 lagging on the Department of Energy's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities.

July 1, 1999

Wholesale Power Rate Schedule SJ–1–A

Availability

This rate schedule shall be available to Monongahela Power Company for energy from the Stonewall Jackson Project (hereinafter called the Project).

Applicability

This rate schedule shall be applicable to energy made available by the Government from the Project and sold in wholesale quantities.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 cycles per second delivered at the delivery points of the customer.

Monthly Rate

The monthly rate for energy made available or delivered under this rate schedule shall be the lower of:

(a) The energy equivalent rate of Cumberland Rate Schedule CC–1–E, which is 34.2 mills per kwh, or;

(b) The sum, as reasonably determined by Monongahela Power Company (Buyer), of (1) and (2) below calculated for each period as to which the determination is being made, (normally monthly) based on costs and net generation of Buyer and other regulated subsidiaries of Allegheny Power System, Inc. to produce energy from: Ft. Martin Units Nos. 1 and 2, Hatfield Ferry Units Nos. 1, 2, and 3, Harrison Units Nos. 1, 2, 3, and Pleasants Units Nos. 1 and 2.

(1) The accrued expense in FERC Account 501 (fuel expense) or such appropriate similar account as the FERC may from time to time establish for fuel expense for steam power generation, divided by the actual net generation in kilowatt-hours, exclusive of plan use, plus

(2) One-half of the accrued expenses in FERC Accounts 510–514 (maintenance expense), inclusive, of such other appropriate similar accounts as FERC may from time to time establish for maintenance expense for steam power generation, divided by the actual net generation in kilowatt-hours, exclusive of plant use.

Energy Made Available

Project energy generated by the District at the Project except energy use in the production of such energy or utilized by the District for its operations at the location of the project.

Billing Month

Buyer shall read the metering devices within three business days of the end of each calendar month will render payment within 15 days of such reading.

Conditions of Service

The customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Monongahela Power Company on its side of the delivery point.

July 1, 1999

[FR Doc. 99–17500 Filed 7–8–99; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6244–4]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared June 14, 1999 through June 18, 1999 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 09, 1999 (64 FR 17362).

Draft EISs

ERP No. D–AFS–E65051–AL Rating LO, Longleaf Restoration Project, Implement a Systematic Five-Year Program for Restoration of the Native Longleaf Pine, Conecuh National Forest, Conecuh Ranger District, Covington and Escambia Counties, AL.

Summary: EPA expressed lack of environmental objections. ERP No. D–AFS–J65299–MT Rating EC2, Pinkham Timber Sales and Associated Activities, Implementation, Kootenai National Forest, Rexford Ranger District, Lincoln County, MT.

Summary: EPA expressed environmental concerns regarding some high projected peak flow increases in area streams and adverse wildlife impacts from exceedances of forest standards for open road density and from regeneration timber harvests that would leave many large forest openings. The EPA believed additional information is needed to fully assess and mitigate all potential impacts of management actions.

ERP No. D–BLM–G65051–NM Rating LO, New Mexico Standards for Public Land Health and Guidelines for Livestock Grazing Management, Implementation, NM.

Summary: EPA had no objection to the selection of the RAC or County alternative described in the DEIS. ERP No. DS–BLM–K67040–CA Rating EO2, Imperial Project, Open-Pit Precious Metal Mining Operation Utilizing Heap Leach Processes, Updated Information concerning ''Endangered, Rare or Threatened'' Biological Resources, Plan of Operations and Reclamation Plan Approvals, R–O–W Grants, Conditional Use/US COE Permits, EL Centro Resource Area, CA Desert Dist., Imperial Co., CA.

Summary: EPA expressed continuing environmental objections with the proposed project and its potential impacts, particularly regarding aquatic resources protected under Section 404 of the Federal Clean Water Act. EPA asked that BLM's Final EIS clarify the relationship between the endangered species issues addressed in the Supplemental DEIS and EPA's 1998 comments on the DEIS concerning Clean Water Act Section 404 issues.

Final EISs

ERP No. F–AFS–B65005–NH, Appalachian Mountain Club (AMC) Huts and Pinkham Notch Visitor Center (PNVC) Continued Operations, Special Use Permit and Possible COE Permit Issuance, White Mountain National Forest, Grafton and Coos Counties, NH.

Summary: Final EIS was responsive to EPA's comments and plan described avoids impacts to the water supply, ground water minimizes impacts to wetlands.

ERP No. F–AFS–E65049–FL, Florida National Forests, Revised Land and Resource Management Plan, Implementation, Apalachicola, Choctowhatchee, Ocala and Osceola National Forests, Several Counties, FL.

Summary: EPA expressed environmental concerns and supported an alternative which involves less harvested acreage and road construction

and more emphasis on wilderness and recreation values.

ERP No. F–AFS–J65287–UT, South Spruce Ecosystem Rehabilitation Project, Implementation, Dixie National Forest, Cedar City Ranger District, Iron and Kane Counties, UT.

Summary: EPA believed the preferred alternative, modified Alternative A, can be implemented with the proposed project specific mitigation measures without significant impact to the environment.

Dated: July 6, 1999.

Joseph Montgomery,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. 99–17501 Filed 7–8–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6244–3]

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 June 28, 1999 Through July 2, 1999.

Pursuant to 40 CFR 1506.9.

EIS No. 990220, Draft Supplement, AFS, CA, Sirretta Peak Motorcycle Trail, Additional Information on Alternative Route for the Trail, Construction, Approval and Implementation, Sirretta Peak/Machine Creek Area, Kern Plateau, Sequoia National Forest, Cannell Meadow Ranger District, Tulare County, CA, Due: August 16, 1999, Contact: Barbara Johnston (559) 784–1500. The above AFS EIS should have appeared in the 07/02/99 **Federal Register**. The 45-day Comment Period is Calculated from 07/02/99.

EIS No. 990221, Draft EIS, AFS, ID, Sloan-Kennally Timber Sale, Proposal to Harvest and Regenerate Timber Strands, Implementation, Payette National Forest, McCall Ranger District, Valley County, ID, Due: September 13, 1999, Contact: Don Anderson (208) 634–0700.

EIS No. 990222, Final Supplement, IBR, UT, Boneville Unit, Central Utah Project, Approval and Funding, Utah and Wasatch Counties, UT, Due: August 9, 1999, Contact: Reed Murray (801) 379–1237.

EIS No. 990223, Final EIS, FHW, AZ, Red Mountain Freeway (Loop 202) Construction and Operation, between AR 87 (County Club Drive) and US–60 (Superstition Freeway), Funding, NPDES Permit and COE Section 404 Permit, City of Mesa, Maricopa County, AZ, Due: August 9, 1999, Contact: Ken Davis (602) 379–3646.

EIS No. 990224, Draft EIS, AFS, AK, Kuakan Timber Sale, Timber Harvesting in the Kuakan Project Area, Implementation, Deer Island within the Wrangell Ranger District, Stikine Area of the Tongass National Forest, AK, Due: August 30, 1999, Contact: Randy Hojem (907) 874–2323.

EIS No. 990225, Draft EIS, USN, CA, Marine Corp Air Station (MCAS) Tustin Disposal and Reuse Plan, Implementation Cities of Tustin and Irvine, Orange County, CA, Due: August 23, 1999, Contact: Richard Anderson (703) 695–8240.

EIS No. 990226, Draft EIS, COE, FL, Southwest Florida Improvement to the Regulatory Process for Rapid Growth and Development, Alternatives Development Group (ADG), Lee and Collier Counties, FL, Due: August 23, 1999, Contact: Kenneth R. Dugger (904) 232–1686.

EIS No. 990227, Final EIS, USN, CA, HI, WA, Developing Home Port Facilities For Three NIMITZ-Class Aircraft Carriers in Support of the U.S. Pacific Fleet, Construction and Operation, Coronado, CA; Bremerton and Everett, WA, Pearl Harbor, HI, Due: August 9, 1999, Contact: Bob Hexom (888) 428–6440.

Amended Notices

EIS No. 990196, Draft EIS, NPS, VA, Booker T. Washington National Monument (BOWA), General Management Plan, Implementation, Franklin County, VA, Due: August 9, 1999, Contact: Fred Herling (215) 597–1782. Published FR 07–09–99 Correction to Telephone Number.

Dated: July 6, 1999.

Joseph Montgomery,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. 99–17502 Filed 7–8–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

AGENCY: Federal Election Commission.

PREVIOUSLY ANNOUNCED DATE & TIME: Thursday, June 24, 1999, 10:00 a.m., Meeting Open to the Public.

The following item was added to the agenda: Advisory Opinion 1999–12: Campaign for Working Families (CWF), by Bobby R. Burchfield, counsel.

DATE AND TIME: Tuesday, July 13, 1999 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, July 15, 1999 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Advisory Opinion 1999–14: Council for a Livable World by counsel, Elizabeth Kingsley.

Advisory Opinion 1999–15: American Resort Development Association by counsel, Mark Braden.

Matching Fund Error Rates—Alexander for President, Buchanan for President, Clinton/Gore '96 Primary Committee, Inc.

Clinton/Gore '96 Primary Committee, Inc.—Proposed Notice of Repayment Determination.

Alexander for President—Proposed Notice of Repayment Determination.

Buchanan for President—Proposed Notice of Repayment Determination.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Acting Secretary of the Commission.

[FR Doc. 99–17530 Filed 7–7–99; 10:12 am]

BILLING CODE 6715–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Sunshine Meeting Notice

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

TIME AND DATE: 10:00 a.m., Wednesday, July 14, 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: July 7, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–17561 Filed 7–7–99; 11:33 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Submission for OMB Review; Comment Request

The Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and 5 CFR 1320.5. The following are those information collections recently submitted to OMB.

1. Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (45 CFR Part 92)—0990–0169—Extension No Change—Pre-award, post-award, and subsequent reporting and recordkeeping requirements are necessary to award, monitor, close out and manage grant programs, ensure minimum fiscal control and accountability for Federal funds and deter fraud, waste and abuse. Respondents: State and Local Governments; Number of Respondents: 4000; Average Burden per Respondent: 70 hours; Total Burden: 280,000 hours.

OMB Desk Officer: Allison Eydt.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 690–6207. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503. Comments may also be sent to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201. Written comments should be received within 30 days of this notice.

Dated: July 1, 1999.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 99–17409 Filed 7–8–99; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Pilot Training and Research Program; Demonstration Project; Studies in Clinical Pharmacology and New Drug Review Technologies; Availability of Cooperative Agreements; Request for Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), Center for Drug Evaluation and Research (CDER) is announcing the anticipated availability of funds for training and research cooperative agreements for fiscal year (FY) 2000. This pilot program is a demonstration project to evaluate the extent to which such a program can contribute to an identifiable increase in the number of trained biomedical, scientific personnel in clinical pharmacology. Research will be conducted to study clinical pharmacology and biopharmaceutics issues related to new drug development and review. If funds are appropriated in FY 2000 for the program, FDA anticipates that approximately $3.0 million will be available. FDA anticipates making 4 to 10 cooperative agreement awards to domestic medical schools at $300,000 to $750,000 per award per year (direct and indirect costs). Support for these agreements may be for up to 3 years. The number of agreements funded will depend on the quality of the applications received and the availability of Federal funds to support the projects.

DATES: Submit applications by August 9, 1999. If the closing date falls on a weekend, it will be extended to Monday; if the date falls on a holiday, it will be extended to the following workday.

ADDRESSES: Application forms are available from, and completed applications should only be submitted to: Rosemary Springer, Senior Grants Management Specialist (HFA–520), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7182. Applications hand-carried or commercially delivered should be addressed to 5630 Fishers Lane, rm. 2129, Rockville, MD 20852. Application forms can also be found at ''http://www.nih.gov/grants/phs398/forms-toc.html''.

FOR FURTHER INFORMATION CONTACT:

Regarding the administrative and financial management aspects of this notice: Rosemary Springer (address above).

Regarding the programmatic aspects of this notice: Shiew-Mei Huang, Office of Clinical Pharmacology and Biopharmaceutics, Center for Drug Evaluation and Research (HFD–850), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5690.

SUPPLEMENTARY INFORMATION: FDA, CDER is announcing the anticipated availability of funds for FY 2000 for awarding cooperative agreements to support post-doctoral training of clinical pharmacologists. The training to be supported will be research studies related to new drug development and review. FDA will support the studies covered by this notice under Pub. L. 102–222. The law authorizes a pilot program for training additional clinical pharmacologists. If funding is available, FDA will award Demonstration Cooperative Agreements to evaluate the extent to which such a program can contribute to increasing the number of trained biomedical, scientific personnel in clinical pharmacology. FDA's extramural program is described in the Catalog of Federal Domestic Assistance, No. 93.948.

The Public Health Service (PHS) strongly encourages all award recipients to provide a smoke-free work place and to discourage the use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people. PHS urges applicants to submit work plans that address

specific objectives of ''Healthy People 2000.'' Potential applicants may obtain a copy of Healthy People 2000 (Full Report, stock No. 017–00100474–0) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, 202–512–1800.

PHS Policy is that applicants for PHS clinical research grants are required to include minorities and women in study populations so that research findings can be of benefit to all persons at risk of the disease, disorder or condition under study; special emphasis must be placed on the need for inclusion of minorities and women in studies of diseases, disorders, and conditions which disproportionately affect them. This policy is intended to apply to males and females of all ages. If women or minorities are excluded or inadequately represented in clinical research, particularly in proposed population-based studies, a clear and compelling rationale must be provided.

Some activities carried out by a recipient under this announcement may be governed by Department of Health and Human Services' regulations for the protection of human research subjects (45 CFR part 46). These regulations require recipients to establish procedures for the protection of subjects involved in any research activities. Prior to funding and upon request of the Office for Protection from Research Risks (OPRR), prospective recipients must have on file with OPRR an assurance to comply with 45 CFR part 46. This assurance to comply is called an Assurance document. It includes the Institutional Review Board (IRB) designated for review and approval of procedures for carrying out any research activities occurring in conjunction with this award. If an applicable Assurance document for the applicant is not already on file with OPRR, a formal request for the required Assurance will be issued by OPRR at an appropriate point in the review process, prior to award, and examples of required materials will be supplied at that time. No applicant or performance site, without an approved and applicable Assurance on file with OPRR, may spend funds on human subject activities or accrue subjects. No performance site, even with an OPRR-approved and applicable Assurance, may proceed without approval by OPRR of an applicable Assurance for the recipients. Applicants may wish to contact OPRR by facsimile 301–402–0527 to obtain preliminary guidance on human subjects' issues. When contacting OPRR, applicants should provide their institutional affiliation, geographic location, and all available Requests for Application (RFA) citation information.

Applicants are advised that the section on human subjects on pages 7 and 8 in the application kit entitled ''Section C. Specific Instructions—Forms, Item 4, Human Subjects,'' should be carefully reviewed for the certification of Institutional Review Board (IRB) approval requirements. Documentation of IRB approval for every participating center is required to be on file with the Grants Management Officer, FDA. The goal should be to include enough information on the protection of human subjects in a sufficiently clear fashion so reviewers will have adequate material to make a complete review.

Consent and/or assent forms, and any additional information to be given to a subject, should accompany the grant application. Information that is given to the subject or the subject's representative must be in language that the subject or his or her representative can understand. No informed consent, whether oral or written, may include any language through which the subject or the subject's representative is made to waive any of the subject's legal rights, or by which the subject or representative releases or appears to release the investigator, the sponsor, or the institution or its agent from liability. If a study involves both adults and children, separate consent forms should be provided for the adults and the parents or guardians of the children.

The elements of informed consent are stated in the regulations at 45 CFR 46.116 and 21 CFR 50.25 as follows:

1. Basic elements of informed consent.

In seeking informed consent, the following information shall be provided to each subject.

(a) A statement that the study involves research, an explanation of the purposes of the research and the expected duration of the subject's participation, a description of the procedures to be followed, and identification of any procedures which are experimental.

(b) A description of any reasonably foreseeable risks or discomforts to the subject.

(c) A description of any benefits to the subject or to others which may reasonably be expected from the research.

(d) A disclosure of appropriate alternative procedures or courses of treatment, if any, that might be advantageous to the subject.

(e) A statement that describes the extent, if any, to which confidentiality of records identifying the subject will be maintained, and that notes the possibility that FDA may inspect the records.

(f) For research involving more than minimal risk, an explanation as to whether any compensation and any medical treatments are available if injury occurs and, if so, what they consist of, or where further information may be obtained. Additional protections for children involved as subjects in research are found in 45 CFR part 46, subpart D.

(g) An explanation of whom to contact for answers to pertinent questions about the research and research subject's rights, and whom to contact in the event of research-related injury to the subject.

(h) A statement that participation is voluntary, that refusal to participate will involve no penalty or loss of benefits to which the subject is otherwise entitled, and that the subject may discontinue participation at any time without penalty or loss of benefits to which the subject is otherwise entitled.

2. Additional elements of informed consent.

When appropriate, one or more of the following elements of information shall also be provided to each subject.

(a) A statement that the particular treatment or procedure may involve risks to the subject (or the embryo or fetus, if the subject is or may become pregnant) which are currently unforeseeable.

(b) Anticipated circumstances under which the subject's participation may be terminated by the investigator without regard to the subject's consent.

(c) Any costs to the subject that may result from participation in the research.

(d) The consequences of a subject's decision to withdraw from the research and procedures for orderly termination of participation by the subject.

(e) A statement that significant new findings developed during the course of the research which may relate to the subject's willingness to continue participation will be provided to the subject.

(f) The approximate number of subjects involved in the study.

Additional protections for children involved as subjects in research are found in 45 CFR part 46, subpart D.

The informed consent requirements are not intended to preempt any applicable Federal, State, or local laws which require additional information to be disclosed for informed consent to be legally effective.

Nothing in the notice is intended to limit the authority of a physician to provide emergency medical care to the extent that a physician is permitted to do so under applicable Federal, State, or local law.

I. Background

There is currently a nationwide shortage of trained clinical pharmacologists at a time when advances in molecular medicine have provided an unparalleled opportunity to better understand pharmacotherapeutics. This shortage limits the number of clinical pharmacologists trained in the range of new technologies that are driving the future directions of drug development and regulatory science. Clinical pharmacologists have tremendous potential to translate molecular insights and technology in a way that would promote the public health, improve the quality and speed of the regulatory review, and accelerate the development of new drugs in this country. Pub. L. 102–222 authorizes a pilot project for a modern training program to increase clinical pharmacology and mechanistic knowledge in this country, and to help alleviate this shortage of trained biomedical personnel. With this authority and appropriated funding, FDA will establish a Demonstration Project to evaluate whether training and research cooperative agreements can contribute to an increase in the number of trained clinical pharmacologists. The public health role of the FDA's CDER in this program relates directly to the safe and effective use of prescription drugs. Several areas of clinical pharmacology and biopharmaceutics research are related to the public health by providing a bridge between bedside observations of clinical outcome, and molecular insights and mechanistic knowledge. FDA seeks to have research conducted in the clinical pharmacology training program that will develop:

1. Understanding of the multiple enzyme isoforms responsible for drug-drug interactions and the variations in risk associated with different metabolic pathways;

2. The application of pharmacogenomics to characterize the mechanisms of disease to target drug therapies to the causative events and pathways of disease progression;

3. The development of molecularly based biological markers and surrogate endpoints for clinical outcomes that can be linked to systemic drug exposure to provide ways to assess early treatment interventions and long term management of chronic diseases;

4. The application of sophisticated mechanistic-based exposure-response models to design human clinical trials and simulate clinical outcomes as a function of drug input and patient variables;

5. The development of an electronic bioinformatic database to manage key metabolic and drug-drug interaction data that can provide the core knowledge for an expert system intended to predict clinical risks from in vitro and in vivo data; and

6. The biopharmaceutics and clinical pharmacology characterization of complex drug substances including botanicals, herbs, and endogenous proteins to offer the possibility that these agents can be used more effectively and safely in the early treatment and long-term management of diseases.

II. Research Goals and Objectives

The specific objective of this training and research program will be to provide financial assistance to investigators who conduct research as part of their clinical pharmacology training program. It is of particular importance to the public health that this program advance scientific knowledge of mechanisms of in vitro/in vivo metabolism/drug interactions; characterization of individual exposure-response to drugs; and the effect of age, gender, and race on drug disposition and exposure-response relationships. Projects that fulfill any one or a combination of the following specific objectives will be considered for funding:

1. Mechanistic understanding of drug-drug, drug-food (e.g., grapefruit juice), and drug-non-prescription product interactions in the general population;

2. Research to understand the mechanistic basis for individual variability in pharmacokinetics and pharmacodynamics as a function of intrinsic (gender, age) and extrinsic (co-administered drugs) factors: application of pharmacogenomics, pharmacogenetics biological markers, and surrogate endpoints to link exposure to clinical outcome;

3. Research to develop and evaluate biomarkers, and evaluate noninvasive imaging as a way to assess safety and efficacy;

4. Computer modeling and clinical trial simulations: evaluation of clinical study designs to confirm drug safety and efficacy; evaluation of these techniques in the assessment of gender-, age-, race-, and liver/kidney function-specific differences in drug response and drug interactions;

5. Development of electronic databases to capture key metabolism/drug interaction data and provide a linkage to an expert system to assist new drug application reviews of pre-clinical and clinical drug interaction data; and

6. Research to define the clinical pharmacology characteristics (such as dose-exposure-response) of complex drug substances (such as conjugated estrogens, botanical, and proteins), to assure proper use of these substances; research to define the biopharmaceutic characteristics of the active ingredients for these substances and development of ways to establish the equivalency of these dosage forms to establish standards for new and generic product approvals.

III. Reporting Requirements

A Program Progress Report and an annual Financial Status Report (FSR) (SF–269) are required under 45 CFR 74.51 and 74.52. An original FSR and two copies shall be submitted to FDA's Grants Management Officer within 90 days of the budget expiration date of the cooperative agreement. Failure to file the FSR (SF–269) on time will be grounds for suspension or termination of the grant. Progress reports will be required semiannually. The first report will be due 6 months after award and the second report that will also serve as the annual report will be due 90 days after the budget expiration date. CDER program staff will advise the recipient of the suggested format for the Program Progress Report at the appropriate time. A final FSR (SF–269) and Program Progress Report must be submitted within 90 days after the expiration of the project period as noted on the Notice of Grant Award.

Program monitoring of recipients will be conducted on an ongoing basis and written reports will be reviewed and evaluated at least semiannually by the Project Officer. Project monitoring may also be in the form of telephone conversations between the Project Officer/Grants Management Specialist and the Principal Investigator and/or a site visit with appropriate officials of the recipient organization. The results of these monitoring activities will be duly recorded in the official file and may be available to the recipient upon request.

IV. Mechanism of Support

A. Award Instrument

Support for this program will be in the form of demonstration cooperative agreements. These demonstration cooperative agreements will be subject to all policies and requirements that govern the research grant programs of the Public Health Service, as modified by this RFA, including the provisions of 42 CFR part 52 and 45 CFR parts 74 and 92. The regulations issued under Executive Order 12372 do not apply to this program.

B. Eligibility

These demonstration cooperative agreements are available to any domestic public or private medical school. For-profit entities must commit to excluding fees or profit in their request for support to receive awards. Organizations described in section 501(c)(4) of the Internal Revenue Code of 1968 that engage in lobbying are not eligible to receive awards.

C. Length of Support

The length of support will be for up to three years. Funding beyond the first year will be noncompetitive and will depend upon: (1) Satisfactory performance during the preceding year; and (2) the availability of Federal fiscal year appropriations.

V. Delineation of Substantive Involvement

Inherent in the cooperative agreement award is substantive involvement by the awarding agency. Accordingly, FDA will have substantive involvement in the programmatic activities of all the projects funded under this RFA. Substantive involvement includes, but is not limited to, the following:

1. FDA will appoint Project Officers who will actively monitor the FDA supported program under each award and collaborate with award recipients;
2. FDA will review experimental protocols describing study objectives, study design, and data analysis methods prepared by Award recipients;
3. FDA Project Officers and scientists will collaborate with the recipient and have final approval on the experimental protocol;
4. FDA will collaborate on the interpretation of findings and may incorporate information from studies in agency policy decisions benefiting the public health;
5. FDA Project Officers will be eligible to participate as coauthors on publications based on the research conducted.

VI. Review Procedure and Criteria

A. Review Method

Grants management and program staff will first review all applications submitted in response to this RFA for responsiveness to the RFA. If applications are found to be nonresponsive, they will be returned to the applicant without further consideration.

Responsive applications will be reviewed and evaluated for scientific and technical merit by an ad hoc panel of experts in the subject field of the specific application. Responsive applications will also be subject to a second level of review by a National Advisory Council for concurrence with the recommendations made by the first level reviewers, and the final funding decisions will be made by the Commissioner of FDA or designee.

B. Program Review Criteria

Applicants are strongly encouraged to contact FDA to resolve any questions regarding criteria or administrative procedure prior to the submission of their application. All questions of a technical or scientific nature must be directed to the CDER contact and all questions of an administrative or financial nature must be directed to the Grants Management Office. (See the ''**FOR FURTHER INFORMATION CONTACT**'' section at the beginning of this document.) Responsiveness will be based on the following criteria:

1. Post-doctoral training and research studies should be proposed on one or more of the six clinical pharmacology and biopharmaceutics objectives listed in this notice under section II: Research Goals and Objectives;
2. Whether the proposed study is within the budget and costs have been adequately justified and fully documented;
3. Soundness of the rationale for the proposed study and appropriateness of the study design to address the objectives of the RFA;
4. Availability and adequacy of laboratory and associated clinical pharmacology and biopharmaceutics resources;
5. Availability and adequacy of support services, e.g., biostatistics, computers, etc.; and
6. Research experience, training, and competence of the Principal Investigator and support staff.

VII. Submission Requirements

Applications must contain one or more of the research objectives in section II of this notice but may also contain other objectives not specifically identified. However, each objective must be described and budgeted independently. An overall budget incorporating all objectives must be submitted as reflected on pages DD and EE of the Grant Application Form PHS 398 (rev. 5/95).

Budget items normally allowed under Federal research programs will be considered allowable under this program. In addition, stipend support may be requested. Stipend levels may not exceed those which are allowed under NIH regulations. Applicants may refer to the NIH web site ''http://www.nih.gov/grants/guide/notice.files/not98–161.html'' for current stipend levels. PHS funds can be used for stipends paid only to a U.S. citizen, a noncitizen national, or a person who has been lawfully admitted to the U.S. for permanent residence at the time of the application. Payback requirements are not applicable under this program. PHS Expanded Authorities do not apply. Indirect costs requested may not exceed 8 percent and will exclude equipment in the base.

The original and five copies of the completed Grant Application Form PHS 398 (Rev. 5/95) with copies of the appendices for each of the copies, must be delivered to Rosemary Springer (address above). Submit applications by August 9, 1999. If the closing date falls on a weekend, it will be extended to Monday; if the date falls on a holiday, it will be extended to the following workday. No supplemental or addendum material will be accepted after the receipt date.

The outside of the mailing package and item 2 of the application face page should be labeled, ''Response to RFA FDA CDER–CP–2000.''

VIII. Method of Application

A. Submission Instructions

Applications will be accepted during normal working hours, 8 a.m. to 4:30 p.m., Monday through Friday, on or before the established receipt date. Applications will be considered received on time if sent or mailed on or before the receipt date as evidenced by a legible U.S. Postal Service dated postmark or a legible date receipt from a commercial carrier, unless they arrive too late for orderly processing. Private metered postmarks shall not be acceptable as proof of timely mailing. Applications not received on time will not be considered for review and will be returned to the applicant. (Applicants should note that the U.S. Postal Service does not uniformly provide dated postmarks. Before relying on this method, applicants should check with their local post office.)

Do not send applications to the Center for Scientific Research (CSR), National Institutes of Health (NIH). Any application that is sent to the NIH and therefore not received in time for orderly processing, will be deemed unresponsive and returned to the applicant. Instructions for completing the application forms can be found on the NIH home page on the Internet (address ''http://www.nih.gov/grants/phs398/phs398.html''; the forms can be found at ''http://www.nih.gov/grants/phs398/forms—toc.html''). However, as noted above, applications are not to be

mailed to the NIH. (Applicants are advised that FDA does not adhere to the page limitations or the type size and line spacing requirements imposed by the NIH on its applications). Applications must be submitted via mail delivery as stated above. FDA is unable to receive applications electronically. The Institutional National Research Service Award requirements do not apply.

B. Format for Application

Submission of the application must be on Grant Application Form PHS 398 (Rev. 5/95). All ''General Instructions'' and ''Specific Instructions'' in the application kit should be followed with the exception of the receipt dates and the mailing label address. Do not send applications to the CSR, NIH.

The face page of the application should reflect the request for applications number RFA–FDA–CDER–CP–2000.

C. Confidentiality of Information

Data included in the application, if restricted with the legend specified below, may be entitled to confidential treatment as trade secret or confidential commercial information within the meaning of the Freedom of Information Act (5 U.S.C. 552(b)(4)) and FDA's implementing regulations (21 CFR 20.61).

Legend: Unless disclosure is required by the Freedom of Information Act as amended (5 U.S.C. 552) as determined by the freedom of information officials of the Department of Health and Human Services or by a court, data contained in the portions of this application which have been specifically identified by page number, paragraph, etc., by the applicant as containing restricted information shall not be used or disclosed except for evaluation purposes.

IX. Paperwork Reduction Act of 1995

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Office of Management and Budget (OMB) has assigned OMB control number 0925–0001 to the collection of information regarding grant applications in Form PHS 398. This approval expires February 28, 2001.

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

Dated: July 2, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning and Legislation.

[FR Doc. 99–17505 Filed 7–6–99; 4:04 pm]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–R–0276]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Request: Extension of a currently approved collection; *Title of Information Collection:* Feedback Postcard; *HCFA Form Number:* HCFA–R–0276 (OMB approval #: 0938–0766); *Use:* The purpose of this collection is post-distribution testing. This feedback postcard will be printed with Medicare & You 2000. This is the primary vehicle for presenting Medicare information to beneficiaries. Each household with up to 4 Medicare beneficiaries will receive one book. Households with over 4 beneficiaries will have one book sent to each beneficiary. (It is assumed these may be nursing homes/care facilities.) The beneficiaries have the option of completing the postcard, which will provide HCFA with valuable information that will assist in improving future versions of the publication.; *Frequency:* On occasion, Semi-annually, and Annually; *Affected Public:* Individuals or Households, Business or other for-profit, Not-for-profit institutions, Federal Government, State, Local or Tribal Gov; *Number of Respondents:* 16,834,000 (estimate); *Total Annual Responses:* 510,000 (3% estimate); *Total Annual Burden Hours:* 25,500.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards Attention: Louis Blank Room N2–14–26 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: July 1, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–17471 Filed 7–8–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–1856/1893, HCFA–1880/1882, and HCFA–R–0290]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions;

(2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Request for Certification in the Medicare/Medicaid Program to Provide Outpatient Physical Therapy and/or Speech-Language Pathology and the Outpatient Physical Therapy and/or Speech-Language Pathology Survey Report Form and Supporting Regulations in 42 CFR 485.701–485.729; *Form No.:* HCFA–1856/1893 (OMB #0938–00065); *Use:* The form HCFA–1856 is utilized as an application to be completed by suppliers of OPT/SP services requesting participation in the Medicare/Medicaid programs. This form initiates the process of obtaining a decision as to whether the conditions of coverage are met as an OPT/SP supplier. It is used by the HCFA Regional Offices (ROs) to enter the new supplier into the Online Survey, Certification and Reporting System (OSCAR). The survey report form HCFA–1893 is an instrument used by the State survey agency to record data collected during an on-site survey of a supplier of OPT/SP services to determine compliance with the applicable conditions of participation and to report this information to the Federal Government. The form is primarily a coding worksheet designed to facilitate data reduction and retrieval into the OSCAR system at the HCFA ROs. The form includes basic information on compliance (i.e., met, not met, explanatory statements) and does not require any descriptive information regarding the survey activity itself; *Frequency:* On occasion; *Affected Public:* Business or other for profit; *Number of Respondents:* 1,700; *Total Annual Responses:* 255; *Total Annual Hours:* 446.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Request for Certification as Supplier of Portable X-ray Services under the Medicare/Medicaid Program for Portable X-ray Survey Report and Supporting Regulations in 42 CFR 486.100–486.110; *Form No.:* HCFA–1880/1882 (OMB #0938–0027); *Use:* The Medicare program requires portable X-ray suppliers to be surveyed for health and safety standards. The HCFA–1880 is used by the surveyor to determine if a portable X-ray applicant meets the eligibility requirements. It also promotes data reduction or introduction, and retrieval from the Online Survey Certification and Reporting (OSCAR) System by the HCFA Regional Offices. The HCFA–1882 is the survey form that records survey results. The form is primarily a coding work sheet designed to facilitate data reduction and retrieval into the OSCAR system at the HCFA Regional Offices; *Frequency:* On occasion; *Affected Public:* Business or other for profit; *Number of Respondents:* 655; *Total Annual Responses:* 98; *Total Annual Hours:* 172.

3. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Procedures for Making National Coverage Decisions; *Form No.:* HCFA–R–0290 (OMB #0938–NEW); *Use:* These information collection requirements provide the process HCFA will use to make a national coverage decision for a specific item or service under sections 1862 and 1871 of the Social Security Act. This will streamline our decision making process and will increase the opportunities for public participation in making national coverage decisions; *Frequency:* As needed; *Affected Public:* Business or other for profit and Not for profit institutions; *Number of Respondents:* 200; *Total Annual Responses:* 200; *Total Annual Hours:* 8,000.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: July 1, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–17470 Filed 7–8–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Privacy Act of 1974; New System of Records

AGENCY: National Institutes of Health, HHS.

ACTION: Notification of a new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, the National Institutes of Health (NIH) is proposing to establish a new system of records, 09–25–0213, ''Administration: Investigative Records, HHS/NIH/OM/OA/OMA.''

DATES: NIH invites interested parties to submit comments with regard to the proposed internal and routine uses on or before August 9, 1999. NIH sent a report of a New System to the Congress and to the Office of Management and Budget (OMB) on July 9, 1999. This system of records will be effective 40 days from the date of publication unless NIH receives comments on the routine uses which would result in a contrary determination.

ADDRESSES: Please submit comments to: NIH Privacy Act Officer, 6011 Executive Boulevard, Room 601, MSC 7669, Rockville, MD 20852, 301–496–2832. (This is not a toll free number.) Comments received will be available for inspection at this same address from 9 a.m. to 3 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: NIH Privacy Act Officer, 6011 Executive Boulevard, Room 601, MSC 7669, Rockville, MD 20852, 301–496–2832. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: The National Institutes of Health (NIH) proposes to establish a new system of records: 09–25–0213, ''Administration: Investigative Records, HHS/NIH/OM/OA/OMA.'' The purposes of the Investigative Records system of records are to document reviews and investigations undertaken by the Office of Management Assessment (OMA), NIH, to provide management or the Office of Inspector General, Office of the Secretary, HHS, with information needed to take action to resolve complaints of misconduct or alleged violations of statutes, regulations, policies, or the terms and conditions of funding.

This system will comprise records that contain a unique classification number; names of the victim, accused, complainant, and witnesses; date of birth; Social Security number; nature of the incident; and time of occurrence.

This system will include records relating to correspondence concerning an individual's employment status or conduct while employed by or working at NIH. This system will also contain reports of investigations to resolve allegations of misconduct or violations of statutes, regulations or policies, with related exhibits of statements, affidavits or records obtained during the investigation; reports of action taken by management; decisions on any misconduct substantiated by the investigation; and reports of legal action resulting from violations of statutes referred for prosecution.

The records in this system will be maintained in a secure manner compatible with their content and use. NIH and contractor staff will be required to adhere to the provisions of the Privacy Act and the HHS Privacy Act Regulations. The System Manager will control access to the data. Only authorized users whose official duties require the use of such information will have regular access to the records in this system. Authorized users are OMA employees and contractors responsible for implementing employee conduct investigations. Records may be stored on electronic media such as computer tapes and diskettes, and as hard-copy records. Manual and computerized records will be maintained in accordance with the standards of Chapter 45–13 of the HHS General Administration Manual, ''Safeguarding Records Contained in Systems of Records,'' supplementary Chapter PHS hf:45–13, the Department's Automated Information System Security Program Handbook, and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

Data on computer files is accessed by keyword known only to authorized users who are OMA employees or contractor staff who have a need for the data in the performance of their duties as determined by the system manager. Access to the restricted office area containing the rooms where records are stored is controlled through the use of door locks. Only authorized users have the keys to these locks. During regular business hours, rooms in this restricted area are unlocked but entry is controlled by on-site personnel. Rooms where records are stored are locked when not in use. Individually identifiable records are kept in locked file cabinets or in locked rooms under the direct control of the system manager or his/her delegated representatives. Computer records are accessible only through a series of code or keyword commands available from and under direct control of the system manager or his/her delegated representatives.

The routine uses proposed for this system are compatible with the stated purposes of the system. The first routine use allows disclosure to 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 record is maintained, if the disclosure does not compromise the investigative activities of the OMA. The second routine use allows the Department of Health and Human Services (HHS) to disclose information from this system of records to the Department of Justice when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity where the Department of Justice has agreed to represent the employee; or (c) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records by the Department of Justice is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records. The third routine use allows disclosure to a court or adjudicative body in a proceeding when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee; or (d) the United states Government, is a party to the proceeding or has an interest in such proceeding, and by careful review, the agency determines that the records are both relevant and necessary to the proceeding and the use of such records is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records. The fourth routine use allows disclosure when a record, on its face or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative or prosecutive responsibility of the receiving entity. The fifth routine use allows disclosure to a Federal, State, local, foreign, or tribal or other public authority of any portion of this system of records that contains information relevant to the retention of an employee, the retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit. The sixth routine use allows disclosure to Federal, State, local or foreign agencies maintaining, civil, criminal, or other relevant enforcement records, or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to an investigation concerning the retention of an employee or other personnel action, the issuance or retention of a security clearance, the letting of a contract, or the issuance or retention of a grant, or other benefit. The seventh routine use allows disclosure where Federal agencies having the power to subpoena other Federal agencies' records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Department for records in this system of records, and the Department is authorized to make such records available. The eighth routine use allows disclosure to agency contractors, experts, or consultants who have been engaged by the agency to assist in the performance of a service related to this system of records and who need to have access to the records in order to perform the activity. The ninth routine use allows disclosure in the course of employee discipline or competence determination proceedings. The tenth routine use allows disclosure of pertinent records (excluding, for example, records that OMA determines would invade the privacy of the complainant or witnesses, impede the investigation or reveal investigative techniques) to representatives of an awardee of an NIH grant, contract, or cooperative agreement that is the subject of an investigation by OMA, NIH.

The following notice is written in the present, rather than future tense, in order to avoid the unnecessary expenditure of public funds to republish the notice after the system has become effective.

Dated: October 13, 1998.

Anthony L. Itteilag,

Deputy Director for Management, National Institutes of Health.

09–25–0213

SYSTEM NAME:

Administration: Investigative Records, HHS/NIH/OM/OA/OMA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Management Assessment (OMA), 6011 Executive Building, Rockville, MD 20892.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are alleged or suspected to have violated NIH or Departmental policies, regulations or Federal statutes and are: Personnel employed by the Federal Government who are under a career, career conditional, or other type of appointment; personnel working under Intergovernmental Personnel Act assignments; Guest Researchers; Volunteers; Individuals on Temporary Appointments (including student appointments); Fogarty International Center Scholars; Staff Fellows; Intramural Research Training Award Fellows; IC Fellowship Award Recipients; Visiting Associates, Scientists, and Fellows; Commissioned Corps; individuals who receive funding through or have responsibility for NIH sponsored grants, contracts, or cooperative agreements and other individuals who transact or seek to transact business with NIH or HHS or use the facilities of those agencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system includes records relating to allegations of misconduct against the categories of individuals covered by the system of records. Examples of these records include: Correspondence from employees, members of Congress and members of the public alleging misconduct by an employee of NIH or a person who transacts business with NIH. It also contains working papers prepared during the investigations, reports of investigations to resolve allegations of misconduct or violations of statutes, regulations, or policies, with related exhibits of statements, affidavits or records obtained during the investigation; reports of action taken by management; decisions on any misconduct substantiated by the investigation; and reports of legal action resulting from violations of statutes referred for prosecution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 302; 42 U.S.C. 203, 282; 44 U.S.C. 3101; E.0. 10450.

PURPOSE(S):

To document reviews and investigations undertaken by the OMA, NIH to provide management or the Office of Inspector General, Office of the Secretary, HHS with information needed to take action to resolve complaints of misconduct or alleged violations of statutes, regulations, policies, or the terms and conditions of funding.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

1. Disclosure may be made to 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 record is maintained, if the disclosure does not compromise the investigative activities of the OMA.

2. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity where the Department of Justice has agreed to represent the employee; or (c) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records by the Department of Justice is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.

3. Disclosure may be made to a court or adjudicative body in a proceeding when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee; or (d) the United States Government, is a party to the proceeding or has an interest in such proceeding, and by careful review, the agency determines that the records are both relevant and necessary to the proceeding and the use of such records is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.

4. When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative or prosecutive responsibility of the receiving entity.

5. Disclosure may be made to a Federal, State, local, foreign, or tribal or other public authority of any portion of this system of records that contains information relevant to the retention of an employee, the retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit. The other agency or licensing organization may then make a request supported by the written consent of the individual for the entire record if it so chooses. No disclosure will be made unless the information has been determined to be sufficiently reliable to support a referral to another office within the agency or to another Federal agency for criminal, civil, administrative, personnel, or regulatory action.

6. Disclosure may be made to Federal, State, local or foreign agency maintaining civil, criminal, or other relevant enforcement records, or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to an investigation concerning the retention of an employee or other personnel action, the issuance or retention of a security clearance, the letting of a contract, or the issuance or retention of a grant, or other benefit.

7. Where Federal agencies having the power to subpoena other Federal agencies' records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Department for records in this system of records, the Department is authorized to make such records available.

8. Disclosure may be made to agency contractors, experts, or consultants who have been engaged by the agency to assist in the performance of a service related to this system of records and who need to have access to the records in order to perform the activity. Recipients shall be required to comply with the requirements of the Privacy Act

of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

9. Disclosure may be made in the course of employee discipline or competence determination proceedings.

10. Disclosure may be made to representatives of an awardee of an NIH grant, contract, or cooperative agreement that is the subject of an investigation by the OMA, NIH, to the extent necessary for OMA to carry out its investigative functions, while providing appropriate confidentiality for the accused, complainant and witness.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on paper forms in file folders, file cards, magnetic tapes, magnetic disks, optical disks and/or other types of data storage devices.

RETRIEVABILITY:

Records are retrieved by a unique classification number; name of the victim, accused, or complainant, date of birth, Social Security number; and by the nature of the incident and/or time of occurrence.

SAFEGUARDS:

1. *Authorized Users:* Data on computer files is accessed by keyword known only to authorized users who are OMA employees or contractor staff who have a need for the data in the performance of their duties as determined by the system manager.

2. *Physical Safeguards:* Access to the restricted office area containing the rooms where records are stored is controlled through the use of door locks. Only authorized users have the keys to these locks. During regular business hours, rooms in this restricted area are unlocked but entry is controlled by on-site personnel. Rooms where records are stored are locked when not in use. Individually identifiable records are kept in locked file cabinets or in locked rooms under the direct control of the system manager or his/her delegated representatives.

3. *Procedural and Technical Safeguards:* Computer records are accessible only through a series of code or keyword commands available from and under direct control of the system manager or his/her delegated representatives. These records are secured by a multiple-level security system which is capable of controlling access to the individual data field level. Persons having access to the computer database can be restricted to a confined application which permits only a narrow ''view'' of the data. All authorized users of personal information in connection with the performance of their jobs (see Authorized Users, above) protect information from public view and from unauthorized personnel entering an unsupervised area/office. These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, supplementary Chapter PHS hf: 45–13, the Department's Automated Information Systems Security Program Handbook, and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in Manual Chapter 1743, Appendix 1—''Keeping and Destroying Records'' (HHS Records Management Manual, Appendix B–361): Item 1700–A–4, which allows records to be kept permanently when involving extensive litigation; five years for minor infractions or improprieties when final recommendation is that no action be taken, or 20 years for all other. Refer to the NIH Manual Chapter for specific retention and disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Management Assessment, National Institutes of Health, 6011 Executive Blvd., Room 601, Rockville, Maryland 20892.

NOTIFICATION PROCEDURES:

This system is exempt from the notification requirements. However, consideration will be given to requests addressed to the system manager listed above. The requestor must verify his or her identity by providing either a notarization of the request or a written certification that the requestor is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. The request should include: (a) full name, (b) address, and, (c) year of records in question.

RECORDS ACCESS PROCEDURE:

This system is exempt from the access requirements. However, consideration will be given to requests addressed to the system manager listed above. The requestor must verify his or her identity by providing either a notarization of the request or a written certification that the requestor is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. The request should include: (a) Full name, (b) address, and, (c) year of records in question. Requestors should also reasonably specify the record contents being sought. Although the system is exempt, individuals may, upon request, receive records from this system and an accounting of disclosure of their records, if the system manager determines that disclosure would not compromise the investigative activities of the OMA, NIH.

CONTESTING RECORD PROCEDURE:

Exempt. However, consideration will be given requests addressed to the system manager. Requests for corrections should reasonably identify the record and specify the information being contested, and state the corrective action sought with supporting information. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Departmental and other Federal, State, and local government records; subjects of investigations, complaints, witnesses; documents and other material furnished by non-government sources; and personal observations by the investigator.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been exempted pursuant to 5 U.S.C. 552a (k)(2) of the Privacy Act from the access, notification, correction, and amendment provisions of the Privacy Act [5 U.S.C. 552a (c)(3), (d)(1)–(4), (e)(1), (e)(4)(G) and (H) and (f)], because it consists of investigatory material compiled for law enforcement purposes. Individual access to these files could impair investigations and alert subjects of investigations that their activities are being scrutinized, thereby allowing them time to take measures to prevent detection of illegal action or to escape prosecution. Disclosure of investigative techniques/procedures and the existence and identity of confidential sources of information could jeopardize investigative activities. However, any individual who has been denied any right, privilege, or benefit for which he/she would otherwise be entitled or be eligible, as a result of the maintenance of such material, will be given access to the material, except to the extent that the disclosure of the material would

reveal the identity of a source who furnished information to the Government under an express promise that the identity of such source would be held in confidence.

The system is also exempted under 5 U.S.C. 552a (k)(5) of the Privacy Act which allows the agency to exempt from individual access, investigatory materials compiled for the purpose of determining suitability, eligibility, or qualification for federal employment or financial assistance if release of the material would disclose the identity of a confidential source who furnished information to the Government under an express promise that the identity of the source would be held in confidence.

Note: This document was received by the Office of the Federal Register on July 2, 1999.

[FR Doc. 99–17412 Filed 7–8–99; 8:45 am]
BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4441–N–31]

Submission for OMB Review

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notice: Section 8 tenant-based vouchers merger rule.

SUMMARY: The rental voucher program provides a rent subsidy so eligible families can afford rent or decent, safe, and sanitary housing in the private market. Housing Agencies will submit an application for funding and other appropriate forms to administer the Voucher Program. Housing Agencies will report to HUD automated Section 8 Management Information System.

DATES: *Comments Due Date:* August 9, 1999.

ADDRESSES: Interest persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name/or OMB approval number (2577–0169) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Officer of Management Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–1305. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if approval; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 2, 1999.

David S. Cristy,

Director, Information Technology Capital Planning Staff.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Section 8 Tenant-Based Vouchers Merger Rule (Part 982).

Office: Public and Indian Housing.

OMB Approval Number: 2577–0169.

Description of the Need for the Information and its Proposed Use: The rental voucher program provides a rent subsidy so eligible families can afford rent for decent, safe, and sanitary housing in the private market. Housing Agencies will submit an application for funding and other appropriate forms to administer the Voucher Program. Housing Agencies will report to HUD automated Section 8 Management Information Systems.

Form Number: HUD–52515, 52517, 52580, 52580A, 52595, 52646, 52665, 52667, 52672, 52673, 52681, 52683, 52663.

Respondents: Individuals or Households and State, Local, or Tribal Government.

Frequency of Submission: Recordkeeping and On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collection	307,500		13		.165		650,975

Total Estimated Burden Hours: 650,975

Status: Revision.

Contact: Cecilia Livingston, HUD, (202) 708–0477, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

[FR Doc. 99–17419 Filed 7–8–99; 8:45 am]
BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4432–N–27]

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: July 9, 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: July 1, 1999.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 99–17258 Filed 7–8–99; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of a Draft Revised Recovery Plan for the Santa Cruz Long-Toed Salamander for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a Draft Revised Recovery Plan for the Santa Cruz Long-Toed Salamander (*Ambystoma macrodactylum croceum*). The salamander occurs near the Pacific Coast in Monterey and Santa Cruz Counties, California.

DATES: Comments on the draft revised recovery plan must be received on or before September 7, 1999 to receive consideration by the Service.

ADDRESSES: Copies of the draft revised recovery plan are available for inspection by appointment, during normal business hours at the following location: U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, California 93003 (phone: 805/644–1766). Requests for copies of the draft revised recovery plan and written comments and materials regarding this plan should be addressed to Ms. Diane K. Noda, Field Supervisor, at the above Ventura address.

FOR FURTHER INFORMATION CONTACT: Dr. Grace S. McLaughlin, Herpetologist, at the above Ventura address.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystem is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act as amended in 1988 requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during the public comment period prior to approval of each new or revised recovery plan. Substantive technical comments will result in changes to the plans. Substantive comments regarding recovery plan implementation may not necessarily result in changes to the recovery plans, but will be forwarded to appropriate Federal or other entities so that they can take these comments into account during the course of implementing recovery actions. Individualized responses to comments will not be provided.

This salamander is listed as endangered. Currently it is known from no more than seven breeding sites comprising three metapopulations in the coastal areas of two Counties (Santa Cruz and Monterey) along the central coast of California. The Santa Cruz long-toed salamander inhabits temporary ponds for breeding and adjacent upland scrub and wooded areas during the nonbreeding season. These kinds of ponds and adjacent scrub and woodlands are restricted naturally to relatively few areas along the central coast of California. Direct habitat loss due to agriculture, urbanization, and road building is the main cause for decline. Other threats include pollution, siltation, and declining water quality in breeding ponds due to nearby development and agricultural activities; loss of non-breeding habitat and food resources due to the spread of exotic plants; predation by introduced fishes, bullfrogs, and tiger salamanders; and parasites.

The objective of this plan is to provide a framework for the recovery of the Santa Cruz long-toed salamander so that protection by the Act is no longer necessary. The recovery strategy for the Santa Cruz long-toed salamander is focused on providing sufficient breeding and upland habitat to maintain self-sustaining populations of salamanders in each of the metapopulations, and minimizing or eliminating impacts and threats to salamander populations. This plan describes a five-part recovery strategy with specific tasks necessary to maintain healthy aquatic, riparian, and adjacent upland ecosystems that provide habitat for Santa Cruz long-toed salamanders. The tasks, when implemented, will stabilize and maintain populations throughout the range of the Santa Cruz long-toed salamander in California by protecting sufficient breeding and nonbreeding habitat, monitor the status of existing populations to ensure recovery actions are successful, identify and secure additional suitable Santa Cruz long-toed salamander habitat and populations, conduct research to determine the population dynamics and ecology of the species to guide management efforts and determine the best methods for reducing threats, and continue and expand an outreach program.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of this plan.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: July 1, 1999.

Elizabeth H. Stevens,

Acting Manager, California/Nevada Operations Office, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 99–17276 Filed 7–8–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of Draft Revised Recovery Plan for Hawaiian Waterbirds, Second Revision

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of a draft Revised Recovery Plan for Hawaiian Waterbirds, Second Revision. The four waterbirds covered by this plan, the Hawaiian duck or koloa maoli (*Anas wyvilliana*), Hawaiian coot or ''alae ke'oke'o (*Fulica alai*), Hawaiian moorhen or ''alae ''ula (*Gallinula chloropus sandvicensis*), and

the Hawaiian stilt or ae'o (*Himantopus mexicanus knudseni*), are all listed as endangered species by the Federal government and the State of Hawaii. All four species require wetlands for their survival. These species are currently found on one or more of the eight main Hawaiian Islands (Niihau, Kauai, Oahu, Maui, Molokai, Lanai, Kahoolawe, and Hawaii). None of these species are thought to number more than 2,500 individuals, with the exception of the Hawaiian coot which is estimated to range between 2,000 and 4,000 birds statewide.

DATES: Comments on the draft revised recovery plan received by September 7, 1999 will be considered by the Service.

ADDRESSES: Copies of the draft revised recovery plan are available for inspection, by appointment, during normal business hours at the following locations: US Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Boulevard, Room 3–122, Box 50088, Honolulu, Hawaii 96850 (phone 808/541–3441); and Hawaii State Library, 478 S. King Street, Honolulu, Hawaii 96813. Requests for copies of the draft revised recovery plan and written comments and materials regarding this plan should be addressed to the Pacific Islands Manager, at the above Honolulu address.

FOR FURTHER INFORMATION CONTACT: Karen Rosa, Assistant Field Supervisor, Pacific Islands Office (See **ADDRESSES** section).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act as amended in 1988 requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during the public comment period prior to approval of each new or revised recovery plan. Substantive technical comments will result in changes to the plans. Substantive comments regarding recovery plan implementation may not necessarily result in changes to the recovery plans, but will be forwarded to appropriate Federal or other entities so that they can take these comments into account during the course of implementing recovery actions. Individualized responses to comments will not be provided.

The four waterbirds covered by this draft revised recovery plan, the Hawaiian duck or koloa maoli (*Anas wyvilliana*), Hawaiian coot or ''alae ke'oke'o (*Fulica alai*), Hawaiian moorhen or ''alae ''ula (*Gallinula chloropus sandvicensis*), and the Hawaiian stilt or ae'o (*Himantopus mexicanus knudseni*), are all listed as endangered species by the Federal government and the State of Hawaii. Hawaiian ducks are found on the islands of Kauai-Niihau, Oahu, Maui, and Hawaii; Hawaiian coots and Hawaiian stilts are found on all the main Hawaiian Islands except Kahoolawe; and the Hawaiian moorhen is found only on the islands of Kauai and Oahu. All four species require wetlands for their survival. The population of wild Hawaiian ducks in the State of Hawaii is estimated to be 2,500 birds. The statewide coot population is estimated to range between 2,000 and 4,000 birds. Hawaiian moorhens are by far the most difficult of the waterbirds to census, thus accurate population estimates do not exist. However, the Hawaii State Division of Forestry and Wildlife waterbird counts give a rough idea of population trends and indicate that moorhen numbers range between 200 and 400 birds. The Hawaiian stilt population is estimated to range between 1,200 and 1,600 birds.

The four waterbirds addressed in this plan are found in a variety of wetland habitats including freshwater marshes, coastal ponds, taro patches, irrigation ditches, and in the case of the Hawaiian duck, montane streams and swamplands. The primary cause of the decline of these four species of endangered waterbirds has been the loss of wetland habitat. Hunting is another factor that contributed to the historic decline of waterbird populations but does not pose a threat presently. Factors that continue to be detrimental include predation by introduced mammals, including mongooses, feral cats, dogs, and rats; invasion of wetlands by alien plants and fish; hybridization; disease; altered hydrology; and possibly environmental contaminants.

The objective of the draft revised recovery plan is to provide a framework for the recovery of these four taxa so that their protection by the Endangered Species Act is no longer necessary. Actions called for in the revised plan include protection of habitat; management of wetland areas to maximize productivity and survival; conducting research to better define limiting factors, assist in determination of recovery objectives and improve management techniques; monitoring of populations; removal of the threat of mallard-Hawaiian duck hybridization; supplementation of populations of Hawaiian duck and Hawaiian moorhen; and conducting public education and information programs.

For downlisting, wetlands identified in the plan should be protected and managed following management practices identified in the revised recovery plan, monitoring should indicate that populations are stable or increasing above a minimum (2,000 for the Hawaiian duck, 1,800 for the Hawaiian coot, 1,500 for the Hawaiian stilt and the Hawaiian moorhen) for at least 5 consecutive years, and multiple viable breeding populations should exist on several islands identified in the revised recovery plan.

For delisting, in addition to areas already protected and managed, primary habitats identified in the plan should be protected and managed following management practices identified in the revised recovery plan, monitoring should indicate that populations are stable or increasing for at least 10 consecutive years, and multiple viable breeding populations should exist on several islands identified in the plan for each species.

Public Comments Solicited

The Service solicits written comments on the draft revised recovery plan described. All comments received by the date specified above will be considered prior to approval of this plan.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: July 2, 1999.

William B. Zimmerman,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 99–17425 Filed 7–8–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

North American Wetlands Conservation Act: Request for Small Grants Proposals for Year 2000

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of request for proposals.

SUMMARY: The purpose of this notice is to advise the public that we, the U.S. Fish and Wildlife Service (Service) and the North American Wetlands Conservation Council (Council), are currently entertaining proposals that request match funding for wetland conservation projects under the Small Grants program. Projects must meet the purposes of the North American Wetlands Conservation Act of 1989, as amended. We will give funding priority to projects from new grant applicants with new partners, where the project ensures long-term conservation benefits. However, previous Act grantees are eligible to receive funding, and can compete successfully on the basis of strong project resource values.

DATES: Proposals must bear postmarks no later than Friday, December 3, 1999.

ADDRESSES: Address proposals to: North American Waterfowl and Wetlands Office, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Suite 110, Arlington, Virginia 22203, Attn: Small Grants Coordinator.

FOR FURTHER INFORMATION CONTACT: Dr. Keith A. Morehouse, Small Grants Coordinator, or Ms. Heather Poindexter, Office Secretary, North American Waterfowl and Wetlands Office, 703/358–1784; facsimile 703/358–2282.

SUPPLEMENTARY INFORMATION:

The purpose of the 1989 North American Wetlands Conservation Act (NAWCA) is, through partnerships, to promote long-term conservation of North American wetland ecosystems and the waterfowl and other migratory birds, fish and wildlife that depend upon such habitats. Principal conservation actions supported by NAWCA are acquisition, enhancement and restoration of wetlands and wetlands-associated uplands habitat.

Initiated in 1996, the underlying objective of the Small Grants program is to promote long-term wetlands conservation activities through encouraging participation by new grantees and partners who may not otherwise be able to compete in the regular grants program. We also hope that successful participants in the Small Grants program will be encouraged to participate in the NAWCA-based Standard Grants program. Over the first four years of the program, about 326 proposals requesting a total of approximately $10.1 million competed for funding. Ultimately, 55 projects were funded over this period. For 2000, with the approval of the Migratory Bird Conservation Commission, we have again made the Small Grants program operational at a base level of $500,000. Up to $1 million in quality Small Grants projects may be funded.

To be considered for funding in the 2000 cycle, proposals must have a grant request no greater than $50,000. All wetland conservation proposals are accepted that meet the requirements of the Act. However, considering appropriate proposal resource values, funding priority is given to projects from new grant applicants (individuals or organizations who have never received a NAWCA grant) with new partners, where the project ensures long-term conservation benefits. As suggested by the former, this does not preclude former NAWCA grant recipients from receiving Small Grants funding; ultimately, project resource value is the critical factor in deciding which projects receive funding. Too, projects are likely to receive a greater level of attention if they are part of a broader related or unrelated effort to bring or restore wetland or wetland-associated upland conservation values to a particular area or region.

In addition, proposals must represent on-the-ground projects, and any overhead in the project budget must constitute 10 percent or less of the grant amount. The anticipated magnitude of wetlands and wildlife resources benefits that will result from project execution is an important factor in proposal evaluation, and there should be a reasonable balance between acreages of wetlands and wetland-associated uplands.

Please keep in mind that NAWCA and matching funds may only be applied to wetlands acquisition, creation, enhancement, and/or restoration; they may not be applied to signage, displays, trails or other educational features, materials and equipment, even though the goal of the project may ultimately be to support wetland conservation education curricula. Projects oriented toward education are not ordinarily eligible for NAWCA funding because education is not a primary purpose of the Act. However, useful project outcomes can include educational benefits resulting from conservation actions. Research is also not a primary purpose of the Act, and research proposals are not considered for funding.

Even though requiring less total information than those submitted for the regular grants program, Small Grant proposals must have clear explanations and meet the basic purposes given above and the 1:1 or greater non-Federal matching requirements of the NAWCA. Small Grants projects must also be consistent with Council-established guidelines, objectives and policies. All non-Federal matching funds and proposed expenditures of grant funds must be consistent with Appendix A of the Small Grants instructions, ''Eligibility Requirements for Match of NAWCA Grant and Non-Federal Funds.'' Applicants must submit a completed Standard Form 424, Application For Federal Assistance. Small Grants instructional booklets contain forms and instructions for the Standard Form 424; booklets are available at the address provided or by E-mail, as explained later in this notice.

Small Grants proposals may be submitted prior to the due date but must bear postmarks no later than Friday, December 3, 1999. Address submitted proposals as follows: North American Waterfowl and Wetlands Office, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Suite 110, Arlington, VA 22203, Attn: Small Grants Coordinator.

It is essential that applicants submit complete grant request packages to the North American Waterfowl and Wetlands Office (NAWWO), including *all* of the documentation of partners (partner letters) with funding pledge amounts. Information on funding in partner letters, i.e., amounts and description regarding use, must correspond with budget amounts in the budget table and any figures provided in the narrative.

With the volume of proposals received, we are not usually able to contact proposal sources to verify and/or request supplemental data and/or materials. Thus, those proposals lacking required information or containing conflicting information are subject to being declared ineligible and not further considered for funding.

For more information, and/or to request the Small Grants instructional booklet, call the NAWWO office secretary at (703) 358–1784, facsimile (703) 358–2282, or send E-mail to R9ARW__NAWWO@FWS.GOV. Small Grant application instructions are also available by E-mail as a WordPerfect© file, upon request.

In conclusion, we require that upon arrival in the NAWWO, proposal packages must be complete with regard to the information requested, in the format requested, and on time.

The Service has submitted information collection requirements to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act of 1995, Pub. L. 104–13. On May 26, 1999, OMB gave its approval for this information collection and confirmed the approval number as 1018–0100. 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 information collection solicited: is necessary to gain a benefit in the form of a grant, as determined by the North American Wetlands Conservation Council and the Migratory Bird Conservation Commission; is necessary to determine the eligibility and relative value of wetland projects; results in an approximate paperwork burden of 80 hours per application; and does not carry a premise of confidentiality. The information collections in this program will not be part of a system of records covered by the Privacy Act (5 U.S.C. 552(a)).

Dated: July 1, 1999.

John G. Rogers,

Acting Director, Fish and Wildlife Service.

[FR Doc. 99–17468 Filed 7–8–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

North American Wetlands Conservation Act: Request for Evaluation Grant Proposals for Year 2000

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; correction.

SUMMARY: The purpose of this notice is to correct an Office of Management and Budget (OMB) information collections clearance number cited erroneously in a previous **Federal Register** announcement requesting proposals for evaluation grants, as provided for by the North American Wetlands Conservation Act.

FOR FURTHER INFORMATION CONTACT: Dr. Keith A. Morehouse, Small Grants Coordinator, North American Waterfowl and Wetlands Office, 703/358–1784; facsimile 703/358–2282.

SUPPLEMENTARY INFORMATION: On Wednesday, May 26, 1999, the Service published a **Federal Register** notice of request for proposals for the evaluation grants program (64 FR 28504) to be conducted under the authority of section 19 of the North American Wetlands Conservation Act of 1989, as amended. The evaluation grants program seeks to evaluate the wetland conservation effectiveness of the ongoing Small and Standard Grants programs. The referenced notice signaled the initiation of the new program but cited incorrectly that the OMB clearance number is 1018–0100. The OMB information collections clearance number 1018–0100 is in fact that for the Small and Standard Grants programs, approved on May 26, 1999. The emergency clearance number provided by OMB, on 06/04/99, for information collections under the evaluation grants program, and the one that should have been cited in the request for proposals, is 1018–0104. This emergency approval expires on November 30, 1999. Also, the May 26 notice should have advised that the anticipated paperwork burden for applicants is 8 hours for a preproposal and 40 hours for a proposal.

Dated: June 28, 1999.

Daniel Ashe,

Assistant Director—Refuges and Wildlife, Fish and Wildlife Service.

[FR Doc. 99–17469 Filed 7–8–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–065–1220–00]

Notice of Restriction Orders for BLM Lands within the Lower Salmon River Recreation Area from Vinegar Creek to Hammer Creek, Orders No. ID–060–16 and ID–060–17

AGENCY: Bureau of Land Management, Upper Columbia-Salmon Clearwater District, Idaho.

SUMMARY: By order, the following restrictions apply to all public land administered by the Bureau of Land Management within the Lower Salmon River Recreation Area from Vinegar Creek (river mile 112) to Hammer Creek (river mile 53), Idaho County, Idaho.

The following acts are prohibited yearlong:

1. Building, maintaining, or using a fire or campfire.

The following persons are exempt from this order:

A. A person with a burning permit for fires other than campfires, cooking fires, or warming fires;

B. A person using any of the following types of equipment:

1. *FIREPAN, INCLUDING PORTABLE BARBECUE WITH GRILL:* A device made of fire-resistant material or metal, with raised edges of a height sufficient to contain all ash and residue from a wood or charcoal fire. All ash and wood or charcoal residue must be packed out, including partially consumed briquets.

2. *GAS STOVES:* Pressurized liquid or gas stoves including space heating devices.

3. *PERMANENTLY INSTALLED FIRE RINGS AND GRILLS IN DEVELOPED RECREATION SITES:* For the purposes of this closure, developed recreation sites are Spring Bar, Allison Creek, Shorts Bar, Riggins City Park, Lucile, Slate Creek, Skookumchuck, and Hammer Creek.

4. *ENCLOSED WOOD STOVE:* A fully enclosed stove for burning wood or charcoal. The stove must be enclosed on six sides with ¼ inch or smaller screening covering the chimney opening. Ash and wood residue must be packed out.

C. A person on public land more than 200 feet from the edge of the Salmon River.

2. Operating non-valid watercraft on the Salmon River between Vinegar Creek (river mile 112) and Hammer Creek (river mile 53). The area between the Lucile Bridge (river mile 76.5) and the Deer Creek Bridge (river mile 53.7) is exempt from this restriction between the dates of April 1 and September 15 each year.

Non-valid watercraft on the Lower Salmon River are those types of equipment that were not traditionally and commonly being used for recreational purposes on this section of the river prior to 1999 when the Recreation Area Management Plan Revision for the Lower Salmon River Recreation Area was approved.

Non-valid Types of Watercraft Include: Personal water vehicles such as jet skis, air boats, motorized surf boards, wind surf boards, sailboats, hover craft, winged watercraft, any powerboats equipped with an over the transom exhaust system, amphibious craft, mini submarines, powerboats under 12 feet in length and designed to carry a maximum of two passengers, watercraft that must be straddled when ridden by the operator and/or passengers, devices towed behind a powerboat for recreational purposes (such as water skis, kneeboards, and various types of tubes), and devices attached to a fixed point on the bank for purposes of surfing or water skating.

Authorized Float Boats Include: Sweep boats, pontoons, catarafts, inflatable rafts, rigid hull and inflatable kayaks, canoes, dories, drift boats, and inner tubes. They may be propelled by paddles, oars, motors, or other devices,

but are not capable of upstream travel through rapids.

Authorized Powerboats Include: Motorized, rigid hull watercraft with water cooled exhaust that are driven by propeller(s) or jet pump(s), are capable of upstream and downstream travel, and usually require trailering to enter and exit the water.

Authorized watercraft on the Lower Salmon River are those types of float boats and powerboats traditionally and commonly being used for recreational purposes on this section of the Lower Salmon River prior to 1999 when the Recreation Area Management Plan Revision for the Lower Salmon River Recreation Area was approved.

The following persons are exempt from this order:

A. Any Federal, State, or local officer or member of an organized rescue or firefighting force in the performance of an official duty.

B. Any person holding a Special Recreation Permit authorizing use of non-valid watercraft during specific times listed on the permit.

The authority for establishing these restrictions is Title 43, Code of Federal Regulations, Sections 8364.1 and 8365.1–6.

Violation of these orders 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, Rt. 3, Box 181, Cottonwood, ID 83522.

Dated: July 1, 1999.

Fritz U. Rennebaum,

District Manager.

[FR Doc. 99–17486 Filed 7–8–99; 8:45 am]

BILLING CODE 4310–GG–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Bay-Delta Advisory Council's Ecosystem Roundtable Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bay-Delta Advisory Council's (BDAC) Ecosystem Roundtable Amendment Subcommittee will meet on July 22, 1999, to discuss requested amendments for projects funded under the Restoration Coordination Program. This meeting is open to the public. Interested persons may make oral statements to the Ecosystem Roundtable or may file written statements for consideration.

DATES: The Bay-Delta Advisory Council's Ecosystem Roundtable meeting will be held from 9:30 a.m. to 12:00 p.m. on Thursday, July 22, 1999.

ADDRESSES: The Ecosystem Roundtable will meet at the Resources Building, Room 1131, 1416 Ninth Street, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Wendy Halverson Martin, CALFED Bay-Delta Program, at (916) 657–2666. If reasonable accommodation is needed due to a disability, please contact the Equal Employment Opportunity Office at (916) 653–6952 or TDD (916) 653–6934 at least one week prior to the meeting.

SUPPLEMENTARY INFORMATION: The San Franciso Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta system) is a critically important part of California's natural environment and economy. In recognition of the serious problems facing the region and the complex resource management decisions that must be made, the state of California and the Federal government are working together to stabilize, protect, restore, and enhance the Bay-Delta system. The State and Federal agencies with management and regulatory responsibilities in the Bay-Delta system are working together as CALFED to provide policy direction and oversight for the process.

One area of Bay-Delta management includes the establishment of a joint State-Federal process to develop long-term solutions to problems in the Bay-Delta system related to fish and wildlife, water supply reliability, natural disasters, and water quality. The intent is to develop a comprehensive and balanced plan which addresses all of the resource problems. This effort, the CALFED Bay-Delta Program (Program), is being carried out under the policy direction of CALFED. The Program is exploring and developing a long-term solution for a cooperative planning process that will determine the most appropriate strategy and actions necessary to improve water quality, restore health to the Bay-Delta ecosystem, provide for a variety of beneficial uses, and minimize Bay-Delta system vulnerability. A group of citizen advisors representing California's agricultural, environmental, urban, business, fishing, and other interests who have a stake in finding long-term solutions for the problems affecting the Bay-Delta system has been chartered under the Federal Advisory Committee Act (FACA). The BDAC provides advice to CALFED on the program mission, problems to be addressed, and objectives for the Program. BDAC provides a forum to help ensure public participation, and will review reports and other materials prepared by CALFED staff. BDAC has established a subcommittee called the Ecosystem Roundtable to provide input on annual workplans to implement ecosystem restoration projects and programs.

Minutes of the meeting will be maintained by the Program, Suite 1155, 1416 Ninth Street, Sacramento, CA 95814, and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: July 2, 1999.

Kirk Rodgers,

Acting Regional Director, Mid-Pacific Region.

[FR Doc. 99–17426 Filed 7–8–99; 8:45 am]

BILLING CODE 4310–94–M

OVERSEAS PRIVATE INVESTMENT CORPORATION

Privacy Act of 1974; Revisions to Systems of Records

AGENCY: Overseas Private Investment Corporation.

ACTION: Notice of thirteen deleted Privacy Act systems of records, eleven revised systems, and nine new systems.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a), the Overseas Private Investment Corporation (OPIC) has conducted a comprehensive review of the Corporation's Privacy Act systems of records and is publishing the resulting revisions and its twenty systems of records in their entirety. OPIC is deleting from its inventory of systems of records thirteen record systems that are either covered by government-wide or other departmental records systems, or that are obsolete because the information contained in the systems is no longer collected, maintained or retrieved by personal identifier. OPIC also is providing notice of revisions to eleven existing systems of records and establishing nine new systems of records.

OPIC is re-numbering its entire inventory of systems of records as follows:

OPIC–1 was previously Applicants (General). It now becomes Leave Sharing Records.

OPIC–2 was previously Applicants (General Counsel). It now becomes Permanent Duty Relocation Files.

OPIC–3 was previously Attendance and Leave Records. It now becomes Employee Security Badges.

OPIC–4 was previously Awards. It now becomes Employee Exit Forms.

OPIC–5 is renamed Biographies of Employees from the former Biographies of Key Employees and Board Members.

OPIC–6 was previously Compensation. It now becomes Controlled Correspondence.

OPIC–7 is renamed Employee Relations Files from the former Conduct and Discipline.

OPIC–8 was previously Conflicts of Interest. It now becomes Telephone Call Records.

OPIC–9 is renamed Employee Health Insurance—Temporary Continuation of Coverage from the former Employee Health and Life Insurance.

OPIC–10 was previously Employment (Excepted Positions). It now becomes Transportation Subsidy Files.

OPIC–11 was previously Evaluations. It now becomes Freedom of Information (FOIA) Requests and Appeals.

OPIC–12 remains Photographs.

OPIC–13 was previously Placement of Handicapped Individuals. It now becomes Contractor Files.

OPIC–14 was previously Position Classification. It now becomes Retirement.

OPIC–15 was previously Recruitment. It now becomes Personnel Security Investigations.

OPIC–16 was previously Retirement. It now becomes Security Violations.

OPIC–17 was previously Security and Investigations. It now becomes Travel Documents.

OPIC–18 was previously Security Violations. It now becomes Directors (Current and Former).

OPIC–19 was previously Travel Advances. It now becomes Employees' Payroll Records.

OPIC–20 was previously Travel Obligations. It now becomes Employee Biography, Skills and Interest Inventory.

OPIC–21 was previously Directors (Current). It is now deleted and the system is revised and re-numbered as new OPIC–18, Directors (Current and Former).

OPIC–22 was previously Directors (Former). It is now deleted and the system is revised and re-numbered as new OPIC–18, Directors (Current and Former).

OPIC–23 was previously Employees' Payroll Records. It is now deleted and the system is revised and re-numbered as new OPIC–19, Employees' Payroll Records.

OPIC–24 was previously Employee Biography, Skills and Interest Inventory. It is now deleted and the system is revised and re-numbered as new OPIC–20, Employee Biography, Skills and Interest Inventory.

DATES: The revised and proposed new systems will be effective without further notice on August 18, 1999, unless comments are received which result in a contrary determination.

ADDRESSES: Written comments on the new systems of records may be addressed and mailed or hand-delivered to Jean Strasser, Management Services, Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527. Faxes may be sent to Jean Strasser at (202) 842–8413. Submit electronic comments to jstra@opic.gov.

FOR FURTHER INFORMATION CONTACT: Jean Strasser, Management Services, Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527, telephone (202)336–8670.

SUPPLEMENTARY INFORMATION: After reviewing the Corporation's Privacy Act systems of records, thirteen record systems were identified for deletion. Of the thirteen record systems identified for deletion, ten record systems are covered by other governmental or departmental record systems, and three are obsolete because the information contained in the systems is no longer collected, maintained or retrieved by personal identifier. As noted in the summary section, OPIC is re-numbering its entire inventory of systems of records. The records being deleted are listed as follows by their old system numbers:

I. Deletions: Obsolete and Duplicative Systems of Records.

OPIC–1

Applicants (General). Covered by Office of Personnel Management OPM/GOVT–5.

OPIC–2

Applicants (General Counsel). Covered by Office of Personnel Management OPM/GOVT–5.

OPIC–3

Attendance and Leave Records. Substantially overlaps with the revised Overseas Private Investment Corporation OPIC–19, Employees' Payroll Records, and has been combined with this system of records.

OPIC–4

Awards. Covered by Office of Personnel Management OPM/GOVT–2.

OPIC–6

Compensation. Records relating to denials of within grade increases and pay adjustments for administratively determined employees are covered by Office of Personnel Management OPM/GOVT–1. Appeals of denials of within grade increases are covered by the revised Overseas Private Investment Corporation OPIC–7, Employee Relations Files.

OPIC–8

Conflicts of Interest. Covered by Office of Government Ethics OGE/GOVT–1 and OGE/GOVT–2.

OPIC–10

Employment (Excepted Positions). No longer maintained.

OPIC–11

Evaluations. Covered by Office of Personnel Management OPM/GOVT–2.

OPIC–13

Placement of Handicapped Individuals. Covered by Office of Personnel Management OPM/GOVT–7.

OPIC–14

Position Classification. No longer maintained.

OPIC–15

Recruitment. No longer maintained.

OPIC–19

Travel Advances. Substantially overlaps with the revised Overseas Private Investment Corporation OPIC–17, Travel Documents, and has been combined with this system of records.

OPIC–22

Directors (Former). Substantially overlaps with the revised Overseas Private Investment Corporation OPIC–18, Directors (Current and Former), and has been combined with this system of records.

II. Revised Systems of Records

OPIC is republishing eleven of its Privacy Act systems of records with certain changes, additions, and deletions. Where appropriate, system record names have been updated to reflect the current name of the system, as well as changes and updates to content, routine uses and safeguards. Addresses have been changed throughout to reflect the Corporation's current location and organizational structure. Minor stylistic changes have been made to provide a more consistent format throughout. OPIC's entire inventory of systems of records has been re-numbered, as outlined in the

summary section. The revised systems below are published with their new system numbers.

OPIC–5

SYSTEM MAME:

Biographies of Employees.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current employees of the Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

General biographies and press releases based on biographies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; and 44 U.S.C. 3101, Records Management by Agency Heads.

PURPOSE(S):

These records are used to supply OPIC employees, the communications media, clients, and other OPIC stakeholders with pertinent background information on employees of the Corporation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Used (i) for press releases to local, national and international communications media in connection with publicizing the role of the Corporation in furthering the development assistance objectives of the U.S.; (ii) as communication material at OPIC-hosted and external conferences and speaking engagements where employees participate as representatives of the Corporation; (iii) to provide background on new employees, along with their photographs, to current employees of the Corporation via the Corporate Intranet site; (iv) to provide biographies of executives to the public via the Corporation's Internet web site at www.opic.gov; and (v) to assist corporate managers and executives as information for resource planning and utilization decisions and the exercise of supervisory responsibilities.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders in each OPIC department and on departmental computer network drives. Biographies of executives and key employees may also be kept on the Corporation's Inter/Intranet web server and may be accessible to OPIC employees (Intranet) and the public (Internet).

RETRIEVABILITY:

Hard copy files are indexed alphabetically by surname. Electronic records are retrievable by file name, which includes employee name or initials, and through electronic word searches.

SAFEGUARDS:

Original hard copy files are stored in file cabinets in staff offices and in a central location in OPIC's Investment Development Department. Individual staff members have authentication passwords to access the computer network drive for their respective department and to access OPIC's Intranet; staff are electronically restricted from accessing the files of another department unless otherwise authorized. OPIC's web server is protected by standard firewall and Internet security measures.

RETENTION AND DISPOSAL:

Records are updated as needed and retained as long as the individual is employed by the Corporation. Hard copy biographies are disposed of by shredding, and electronic copies are disposed of by deleting files.

SYSTEM MANAGER(S) AND ADDRESS:

Managing Director, Administration, Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

NOTIFICATION PROCEDURE:

Requests by individuals concerning the existence of a record may be submitted in writing, addressed to the system manager above. The request must comply with the requirements of 22 CFR 707.21(b).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Requests by individuals to amend their record must be submitted in writing, addressed to the system manager above. Requests for amendments to records and requests for review of a refusal to amend a record must comply with the requirements of 22 CFR 707.22.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained, staff of the hiring department based on interviews with the subject employees, or information contained in the official personnel folder.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

OPIC–7

SYSTEM NAME:

Employee Relations Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Corporation (excluding personal services contractors) who: (a) Are the subject of a disciplinary or adverse action or a within-grade increase denial or reconsideration; or (b) initiate a grievance, internal agency appeal, or administrative appeal.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains a variety of records relating to formal and informal actions based on conduct or performance; grievances filed under the negotiated or administrative grievance procedures; position classification appeals; and miscellaneous related inquires and complaints. The records may include information such as case number; employment history; copies of notices of proposed actions and decisions; materials relied on by the Corporation to support the proposed action; statements of witnesses; employee responses or appeals; transcripts; and third-party agency decisions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 33, 71, 73, 75, and 77; 5 CFR 315, 531, 532, 715, 731, 735, 752, and 771.

PURPOSE(S):

These records are used to document management actions and decisions concerning adverse personnel actions and employee grievances, appeals and complaints.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Used (i) to provide information to officials of labor organizations recognized under 5 U.S.C. 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions; (ii) where there is an indication of a violation or potential violation of a statute, regulation, rule, or order, to refer records to the appropriate Federal, state, or local agency responsible for investigating or prosecuting a violation or for enforcing or implementing the statute, rule, regulation or order; (iii) to provide information to those sources from which additional information is requested in order to process personnel actions, to the extent necessary to identify the individual, inform the source or the purpose(s) of the request, and to identify the type of information requested; (iv) to provide information to a Federal agency, in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, or the conducting of a security or suitability investigation of an individual, to the extent that the information is relevant and necessary to the requesting agency's decision on the hiring or retention of an employee, or the issuance of a security clearance; (v) to provide information to an administrative body or court in any administrative or legal proceeding to which the Corporation is a party; (vi) to provide information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of OPM rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205, or as may be authorized by law; (vii) to provide information to the Equal Employment Opportunity Commission (EEOC) when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with applicable laws and regulations, or other functions vested in the Commission by applicable law; (viii) to provide information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel; and (ix) to provide information to other Federal agencies needed for the performance of their official duties related to reconciling or reconstructing data files, in relating to personnel actions. In each of these cases, OPIC will determine whether disclosure of the records 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:

Records are stored in hard copy in file folders.

RETRIEVABILITY:

Records are indexed chronologically with the surname indicated on the file tab.

SAFEGUARDS:

Hard copy files are stored in a locked office, access to which is restricted to Human Resources Management staff.

RETENTION AND DISPOSAL:

Records created in conjunction with an adverse or disciplinary action are retained for four years after the case is closed. Labor management issues such as labor arbitration or negotiated grievances are retained for five years after the case is closed. Other records are retained for one to three years based on Federal records disposition schedules. Hard copy records are disposed of by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources Management, Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

NOTIFICATION PROCEDURE:

Requests by individuals concerning the existence of a record may be submitted in writing, addressed to the system manager above. The request must comply with the requirements of 22 CFR 707.21(b).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Requests by individuals to amend their record must be submitted in writing, addressed to the system manager above. Requests for amendments to records and requests for review of a refusal to amend a record must comply with the requirements of 22 CFR 707.22.

RECORD SOURCE CATEGORIES:

Subject employee, supervisors, Human Resources Management staff, EEO Director, Union Officials, EEO Contract Investigators, Merit Systems Protection Board, Equal Employment Opportunity Commission, and the Federal Labor Relations Authority.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

OPIC–9

SYSTEM NAME:

Employee Health Insurance—Temporary Continuation of Coverage.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recently separated employees and current/former employees' former spouses and/or eligible children (excluding personal services contractors).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may include (i) copies of correspondence notifying applicants of their eligibility for temporary continuation of coverage; (ii) copies of election forms for temporary continuation of coverage; and (iii) tracking sheets containing applicant's name, date of separation, eligibility status, dependents' status, dates of correspondence, and dates forwarded to providers for processing.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; and 44 U.S.C. 3101, Records Management by Agency Heads.

PURPOSE(S):

These records are used to record and track eligibility of temporary continuation of coverage and possible subsequent enrollment in government-wide or OPIC health insurance plans.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Used (i) to inform former employees and current/former employees' former spouses and/or eligible children of temporary continuation of health insurance coverage; and (ii) to provide proof that these individuals received notification of temporary continuation of coverage opportunities.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders in file cabinets.

RETRIEVABILITY:

Filed by category of insurance with information indexed therein alphabetically by surname.

SAFEGUARDS:

Files are stored in a locked metal file cabinet. The doors to OPIC's office in which these cabinets are located are locked outside of business hours or anytime the office is not staffed.

RETENTION AND DISPOSAL:

The records are retained for three years following the employee's separation or date of enrollment. They are disposed of by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources Management, Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

NOTIFICATION PROCEDURE:

Requests by individuals concerning the existence of a record may be submitted in writing, addressed to the system manager above. The request must comply with the requirements of 22 CFR 707.21(b).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Requests by individuals to amend their record must be submitted in writing, addressed to the system manager above. Requests for amendments to records and requests for review of a refusal to amend a record must comply with the requirements of 22 CFR 707.22.

RECORD SOURCE CATEGORIES:

Applicants for temporary continuation of health insurance coverage and OPIC Human Resources Management staff.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

OPIC–12

SYSTEM NAME:

Photographs.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current employees of the Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains (i) portrait shots (head and shoulders) and (ii) candid shots of individuals taken while performing official functions or while involved in OPIC-sponsored activities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; and 44 U.S.C. 3101, Records Management by Agency Heads.

PURPOSE(S):

Photographs are used as internal and external communication devices to publicize the Corporation's mission and activities and to recognize the individuals who carry out those activities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Portrait shots are used (i) in releases to local, national and international communications media (a) upon the individual's appointment to the Corporation, and (b) when the individual makes an official appearance; (ii) as communication material at OPIC-hosted and external conferences and speaking engagements where employees participate as representatives of the Corporation; (iii) as a data source for introducing new employees to the Corporation via the Corporate Intranet; and (iv) to provide biographies of executives to the public via the Corporation's Internet web site at www.opic.gov. The photograph may be combined with or used as a supplement to biographies (see OPIC–5). Candid shots are used in (i) releases to the above-mentioned media in connection with publicizing the Corporation's mission and activities; and (ii) in the Corporation's publications.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Photographs are imaged electronically and stored on the Corporation's computer network and/or Inter/Intranet web server, and stored in hard copy files in each OPIC department.

RETRIEVABILITY:

Electronic images are retrievable by file name, which includes employee name or initials, through electronic word searches, or by cross-indexing in a database by surname. Hard copy files are indexed alphabetically by surname. Records are accessible by current OPIC personnel only.

SAFEGUARDS:

Hard copy files are stored in file cabinets in staff offices which are locked during non-business hours. Individual staff members have authentication passwords to access the computer network drive for their respective department and to access OPIC's Intranet; staff are electronically restricted from accessing the files of another department. OPIC's web server is protected by standard firewall and Internet security measures. Only employees authorized to update the Inter/Intranet server have the electronic access to make changes.

RETENTION AND DISPOSAL:

Records are updated as needed and retained as long as the individual is employed by the Corporation. Hard copy photographs are disposed of by shredding, or by returning to the individual. Electronic copies are disposed of by deleting files from the OPIC network.

SYSTEM MANAGER(S) AND ADDRESS:

Managing Director, Administration, Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

NOTIFICATION PROCEDURE:

Requests by individuals concerning the existence of a record may be submitted in writing, addressed to the system manager above. The request must comply with the requirements of 22 CFR 707.21(b).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Requests by individuals to amend their record must be submitted in writing, addressed to the system manager above. Requests for amendments to records and requests for review of a refusal to amend a record must comply with the requirements of 22 CFR 707.22.

RECORD SOURCE CATEGORIES:

Photographs are taken by employees or agents of the Corporation. Except for photographs of executive staff, the decision concerning inclusion of photographs into the Corporation's

system of records is voluntary and at the discretion of the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

OPIC–14

SYSTEM NAME:

Retirement.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who have retired from the Corporation (excluding personal services contractors).

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of SF–2809, SF–2817, retirement application package, retirement estimates, election forms to carry OPIC benefits into retirement, and copies of correspondence from U.S. Office of Personnel Management (OPM) or carriers for OPIC health or life insurance or benefits.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 8301 *et seq.*, Retirement; 5 U.S.C. 301, Departmental Regulations; 44 U.S.C. 3101, Records Management by Agency Heads; and 5 CFR Part 831, Retirement.

PURPOSE(S):

These records are used in the general administration of the Corporation's insurance programs upon election by a retiring OPIC employee, and to facilitate retirement processing by OPM.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Used (i) to forward copies of records to the retiree, beneficiaries, OPM, and the life insurance company for those retirees who carry OPIC's term life insurance into retirement; and (ii) to forward copies to the OPIC health insurance provider for those retirees who carry OPIC's health insurance policy into retirement.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Retirement records are stored in file folders in file cabinets.

RETRIEVABILITY:

Files are indexed alphabetically by surname.

SAFEGUARDS:

Files are stored in a locked metal file cabinet. The doors to OPIC's office in which these cabinets are located are locked outside of business hours or anytime the office is not staffed.

RETENTION AND DISPOSAL:

Records are retained indefinitely or for one year following the death of a retiree or claim made by beneficiaries. Records are disposed of by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources Management, Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

NOTIFICATION PROCEDURE:

Requests by individuals concerning the existence of a record may be submitted in writing, addressed to the system manager above. The request must comply with the requirements of 22 CFR 707.21(b).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Requests by individuals to amend their record must be submitted in writing, addressed to the system manager above. Requests for amendments to records and requests for review of a refusal to amend a record must comply with the requirements of 22 CFR 707.22.

RECORD SOURCE CATEGORIES:

Retirees on whom the records are maintained, OPIC, OPM, or carriers of OPIC insurance benefits.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

OPIC–15

SYSTEM NAME:

Personnel Security Investigations.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Corporation, including personnel services contractors and other contractors, who are being or have been investigated and cleared for access to data classified for national security reasons, for access to automated information systems, and/or for access to OPIC premises outside of business hours.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains an index which is an automated system for identifying the individuals above listing the status and types of investigations, the dates of clearance and level of clearances, and contacts related to the request for the investigations, results of the investigation, and clearance approvals for access to classified national security information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3301, Examination, Selection and Placement; 5 CFR Part 732; and E.O. 10450, Clearance for Federal Employment, as amended.

PURPOSE(S):

These records are used to determine the suitability, eligibility and/or qualifications of employees for initial and/or continued employment in the Corporation, and for employment in sensitive positions involving access to classified information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Used (i) by OPIC human resource and security managers to check the status of security clearances, dates of completion of security background investigations, and as a record of clearance levels received; and (ii) by other Federal agencies who have a job offer pending for individuals covered by the system or who may need to clear an OPIC employee for access to classified information controlled by that agency.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated data is stored on the Corporation's computer network.

RETRIEVABILITY:

All data is retrieved only by authorized OPIC staff by searching under the employee's name.

SAFEGUARDS:

Information contained in the system is safeguarded and protected through assignment to authorized users of passwords to access the automated data.

RETENTION AND DISPOSAL:

Files are retained for one year following clearance, and are deleted electronically after that time.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources Management, Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

NOTIFICATION PROCEDURE:

Requests by individuals concerning the existence of a record may be submitted in writing, addressed to the system manager above. The request must comply with the requirements of 22 CFR 707.21(b).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Requests by individuals to amend their record must be submitted in writing, addressed to the system manager above. Requests for amendments to records and requests for review of a refusal to amend a record must comply with the requirements of 22 CFR 707.22.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained and Federal agencies conducting background investigations under agreements with OPIC.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

OPIC–16

SYSTEM NAME:

Security Violations.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Corporation who have been investigated for alleged security violations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Letters of notice of alleged security violations containing the facts and circumstances surrounding the alleged violations, listing the personnel involved, and describing the findings and recommendations for or against remedial, administrative or disciplinary actions. Documents reflecting results of investigations involving sensitive or classified information that allegedly has been compromised through loss, unauthorized disclosure, improper handling or transmission, or failure to safeguard. Information developed by the security officer investigating the alleged violation may include interviews with the individual(s) involved in the alleged violation; witnesses to or having knowledge of the alleged violation; co-workers and supervisor; sworn statements; depositions; photographs or sketches of the area or equipment involved in the alleged violation; and office security procedures or instructions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; and 44 U.S.C. 3101, Records Management by Agency Heads.

PURPOSE(S):

These records are used to ensure proper handling of national security information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Used (i) by OPIC management as information to track security violations, and (ii) as documentation for agency administrative, disciplinary, criminal, or other actions against employees.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders in a file cabinet.

RETRIEVABILITY:

Files are indexed alphabetically by surname.

SAFEGUARDS:

Files are stored in a file cabinet in a locked office. Only OPIC security staff have access to the office.

RETENTION AND DISPOSAL:

Records are retained for one year and disposed of by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Contract and Administrative Services, Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

NOTIFICATION PROCEDURE:

Requests by individuals concerning the existence of a record may be submitted in writing, addressed to the system manager above. The request must comply with the requirements of 22 CFR 707.21(b).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Requests by individuals to amend their record must be submitted in writing, addressed to the system manager above. Requests for amendments to records and requests for review of a refusal to amend a record must comply with the requirements of 22 CFR 707.22.

RECORD SOURCE CATEGORIES:

OPIC security staff and individuals interviewed by OPIC security staff, including the individuals on whom the records are maintained.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

OPIC–17

SYSTEM NAME:

Travel Documents.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Corporation, Board members, and certain invitees to OPIC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Travel records pertaining to reimbursements or payments, consisting of: Copies of travel orders; travel vouchers; receipts; transportation requests; hotel reservations/statements and all supporting papers relating to official travel of OPIC employees or others authorized to travel by law; and statements from travel carriers or providers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701 *et seq.*, Travel, Transportation and Subsistence; 5 U.S.C. 301, Departmental Regulations; 44 U.S.C. 3101, Records Management by Agency Heads; The Budget and Accounting Act of 1921; The Accounting and Auditing Act of 1950; and Federal Travel Regulations, 41 CFR part 301–304.

PURPOSE(S):

These records are used for internal management and control, and also to authorize travel and reimbursement of expenses incurred. Used to maintain a record of official agency travel and associated expenses, and for payment purposes to vendors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Used (i) by OPIC personnel to monitor progress, verify order, assure delivery and travel reimbursement payments to employees; and (ii) by outside auditors to audit overseas travel vouchers.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in hard copy in file folders.

RETRIEVABILITY:

Files are indexed alphabetically by surname.

SAFEGUARDS:

Files are stored in file cabinets in OPIC's accounting office. This office is accessible to authorized personnel only.

RETENTION AND DISPOSAL:

Records are retained for six years and three months after the close of the fiscal year to which they pertain. Disposed of by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Management, Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

NOTIFICATION PROCEDURE:

Requests by individuals concerning the existence of a record may be submitted in writing, addressed to the system manager above. The request must comply with the requirements of 22 CFR 707.21(b).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Requests by individuals to amend their record must be submitted in writing, addressed to the system manager above. Requests for amendments to records and requests for review of a refusal to amend a record must comply with the requirements of 22 CFR 707.22.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained and staff members who assist in preparation of official travel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

OPIC–18

SYSTEM NAME:

Directors (Current and Former).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Private and public sector members of OPIC's Board of Directors, both current and former. Categories of records in the system: Contains (i) biographies of Board members; (ii) photographs of Board members; (iii) notices of commission dates or other types of appointment notices; (iv) copies of **Federal Register** notices relating to members; and (v) resignation notices.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; and 44 U.S.C. 3101, Records Management by Agency Heads.

PURPOSE(S):

These records are used to track appointments to the Corporation's Board of Directors, and to maintain biographical information on Board Members to share among the groups identified under routine uses.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Used to distribute to the general public, communications media, the Board of Directors, and employees of the Corporation general biographical information on Board Members.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders. Biographies of Board Members may be kept on the Corporation's Internet web server and made available to the public at www.opic.gov.

RETRIEVABILITY:

Hard copy files are indexed alphabetically by surname. Electronic files are maintained on the Corporations computer network.

SAFEGUARDS:

Access to records is limited to OPIC employees who have an official need for the records. Internal procedures governing the use, transfer, and photocopying of the records have been established. Records in the system are maintained in a file cabinet located in the Corporate Secretary's Office. The office is locked each evening. Electronic records are protected from unauthorized access through password identification procedures and other system-based protection methods.

RETENTION AND DISPOSAL:

Records are retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Corporate Secretary, Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

NOTIFICATION PROCEDURE:

Requests by individuals concerning the existence of a record may be submitted in writing, addressed to the system manager above. The request must comply with the requirements of 22 CFR 707.21(b).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Requests by individuals to amend their record must be submitted in writing, addressed to the system manager above. Requests for amendments to records and requests for review of a refusal to amend a record must comply with the requirements of 22 CFR 707.22.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

OPIC–19

SYSTEM NAME:

Employees' Payroll Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

a. Human Resources Management, Overseas Private Investment Corporation, 1100 New York Avenue, NW Washington, DC 20527; b. U.S. Bureau of Reclamation Administration Service Center Payroll Operations Division, Mail Stop D–2600 7301 West Mansfield Avenue Lakewood, CO 80235–2230; and c. For Retired Personnel Files: National Archives and Records Administration, National Personnel Records Center (Civilian Personnel Records Center), 111 Winnebago Street, St. Louis, MO 63118.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Corporation's system consists of four files. Official personnel files held by the Corporation are governed by the U.S. Office of Personnel Management (OPM) regulations found in parts 293 and 297 of Title 5 of the Code of Federal Regulations (CFR) and are covered by OPM's government-wide system of records, OPM/GOVT–1. The four categories of Corporation files are described below: a. Official personnel file—This file consists of the employees' Standard Form 50's and copies of benefits election forms. This is a hard copy file. b. Service history file—These records contain name, Social Security number, birth date, effective date, nature of action, pay plan, grade and salary related to personnel actions for OPIC service prior to July 7, 1996. These are electronic records. c. Payroll file—This system consists of documents related to employees' pay and related payroll deductions that are not properly filed in the official personnel file. These files may contain copies of income tax forms, savings bond elections, net deposits and allotments, union dues elections, Corporation benefits elections, danger pay requests, and legal process related to garnishments. This is a hard copy file. d. Time and attendance reports—This system consists of credit hour records, biweekly summaries of hours worked and leave taken, flextime records, leave applications, authorized premium pay, corrections of the foregoing, and annual audit summaries of leave usage. This information is maintained in an automated system, in supporting paper documentation, and on microfiche.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E.O. 12107, Civil Service Commission and Labor-Management Relations in the Federal Service; 5 CFR 293, Personnel Records; and 5 CFR part 297, Privacy Procedures for Personnel Records.

PURPOSE(S):

These records are used to establish and maintain employee qualifications, benefits and pay.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used (i) to document proper payment and benefits related to employment; and (ii) to transmit information directly to the Denver Administrative Services Center, U.S. Bureau of Reclamation, U.S. Department of Interior, which in turn transmits them to the following: (a) To the Treasury Department for payroll purposes; (b) to the Treasury Department for issuance of savings bonds; (c) to the U.S. Office of Personnel Management for retirement, health and life insurance purposes, and to carry out the Corporation's government-wide personnel management functions; (d) to the National Finance Center, U.S. Department of Agriculture for the Thrift Savings Plan and Temporary Continuation of Coverage; (e) to the Social Security Administration for compliance with the Federal Insurance Compensation Act; (f) to the Internal Revenue Service for taxable earnings and withholding purposes; (g) to the Combined Federal Campaign for charitable contribution purposes; (h) to the American Federal of Government Employees for union dues; (i) to state and local government tax entities for income tax purposes; (j) to the Attorney General of the United States or an authorized representative in connection with litigation, law enforcement, or other matters under the direct jurisdiction of the Department of Justice, or carried out as a legal representative of the Executive Branch agencies; (k) to the Internal Revenue Service for audit and inspection and investigation purposes; (l) for employment verifications as authorized in writing by current or former employees; (m) to judgment holders for the purposes of garnishment; (n) to arbitrators pursuant to a negotiated labor agreement or to Equal Employment Opportunity investigators authorized to hear or investigate employee grievances or complaints of discrimination; and (o) to Congressional offices in response to inquiries from Congressional offices made at the request of individuals to whom the record pertains. These records may also be provided to an administrative body or court in any administrative or legal proceeding to which the Corporation is a party.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

No disclosure to consumer reporting agencies is made from these records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Official personnel files, payroll files, and time and attendance reports are kept in file folders. Service history files prior to July 7, 1996, are maintained in an automated system.

RETRIEVABILITY:

Official personnel files and payroll files are filed alphabetically by surname. Time and attendance reports are filed by date, type of report, and then by surname. Service history files are retrieved from the automated system by surname or Social Security number.

SAFEGUARDS:

All manual records are stored in a key-locked metal file cabinet. The doors to OPIC's offices in which these cabinets are located are locked outside of business hours or anytime the office is not staffed. Access to the service history files requires a user identification number and password.

RETENTION AND DISPOSAL:

(i) The official personnel file is retained until the end of the first thirty days following the date of the individual's separation from the Corporation if the individual is not thereafter employed by a Federal agency, or temporarily retained with authorization by the Office of Personnel Management in the event of a claim or administrative action. After the thirty days, records are sent to the National Archives and Records Administration, National Personnel Records Center, 111 Winnebago Street, St. Louis, Missouri. However, if following the separation from the Corporation, the individual is employed by a Federal agency, records are maintained until that Federal agency requests said records from the Corporation; (ii) Service history records are kept for three years following an employee's separation; (iii) Payroll records of the Corporation are maintained for four calendar years following the year in which the employee separates; and (iv) Time and attendance reports are maintained for six years after the year of the employee's separation. System manager(s) and address: Director, Human Resources Management, Overseas Private Investment Corporation, 1100 New York Ave., NW., Washington, DC 20527.

NOTIFICATION PROCEDURE:

Requests by individuals concerning the existence of a record may be submitted in writing, addressed to the system manager above. The request must comply with the requirements of 22 CFR 707.21(b).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Requests by individuals to amend their record must be submitted in writing, addressed to the system manager above. Requests for

amendments to records and requests for review of a refusal to amend a record must comply with the requirements of 22 CFR 707.22.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained and OPIC employees acting in their official capacities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

OPIC–20

SYSTEM NAME:

Employee Biography, Skills and Interest Inventory.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Overseas Private Investment Corporation, 1100 New York Avenue, NW., Washington, DC 20527.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current employees of the Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records may contain information about the individual's name, current position, primary duties, previous positions, post-secondary education, professional certification, specialized training, country and regional knowledge, industry knowledge, computer skills, special skills (e.g., CPR, financial modeling), interest in other departments, job functional interests, foreign language proficiency, and other similar information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; and 44 U.S.C. 3101, Records Management by Agency Heads.

PURPOSE(S):

These records are used to identify employees' skills and interest related to agency activities and special projects, and to establish biographies that reflect employees' relevant experience and training, to encourage awareness throughout OPIC of employees' skills and interests and thereby increase opportunities for broader assignments and support career development.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Used (i) to provide background information about OPIC staff to other OPIC staff members; (ii) to identify staff members with desired skills or expertise (e.g., language proficiency); (iii) to determine individual staff member's interest in the programs and activities of other OPIC departments; and (iv) to determine the feasibility of special temporary assignments.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Information is input electronically by each OPIC staff member onto an electronic form. Information is stored in an electronic database and biographies and skill set information can be accessed by OPIC staff members by searching available form fields (e.g., name, industry knowledge, computer skills) through OPIC's Intranet. Staff interest information and individual profiles are accessed by Human Resources Management staff who may, in turn, share this information with OPIC managers for work-related needs. Information is retained on-line throughout a staff member's tenure at OPIC. Information will be deleted from the OPIC network when a staff member departs the Corporation.

STORAGE:

Records are stored on OPIC's network in an electronic database. Data forms from which the data is collected are maintained by OPIC's IRM department. No hard copies of completed forms will be maintained except by individual OPIC staff, at each staff member's discretion.

RETRIEVABILITY:

Access to records stored in the database is limited to current OPIC staff as described above.

SAFEGUARDS:

Access to record files is limited as described above. Access is further limited by OPIC's network security precautions, e.g., log-on passwords. The information submitted is volunteered with the understanding that it will be potentially accessible by all OPIC staff.

RETENTION AND DISPOSAL:

When an individual leaves OPIC employment, his or her record will be deleted from the OPIC network.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources Management, Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

NOTIFICATION PROCEDURE:

Requests by individuals concerning the existence of a record may be submitted in writing, addressed to the system manager above. The request must comply with the requirements of 22 CFR 707.21(b).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Requests by individuals to amend their record must be submitted in writing, addressed to the system manager above. Requests for amendments to records and requests for review of a refusal to amend a record must comply with the requirements of 22 CFR 707.22.

RECORD SOURCE CATEGORIES:

Information is volunteered by staff on a form entitled, ''Employee Biography, Skills and Interest Profile.''

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

III. New Systems of Records

Based on a review of OPIC's Privacy Act Systems of records, OPIC is establishing nine new systems of records. OPIC's systems of records have been re-numbered, as outlined in the summary statement above.

OPIC–1

SYSTEM NAME:

Leave Sharing Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees who have volunteered to participate in the Corporation's leave sharing program as either a donor or recipient of annual leave.

CATEGORIES OF RECORDS IN THE SYSTEM:

Leave sharing records contain the individual's name, organization, office telephone number, Social Security Number, position title, grade, pay level, leave balances, brief description of the medical emergency which qualifies the individual for inclusion in the leave transfer program, the status of the hardship, and a statement that selected data elements may be used in soliciting donations. The file may also contain medical or physician certifications and OPIC approvals or denials. Donor records include the individual's name, organization, office, telephone number, Social Security Number, position title, grade, pay level, leave balances, number of hours being transferred (or donated leave), and, in the case of the transfer program, the designated leave recipient.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 44 U.S.C. 3101, Records Management by Agency Heads; 5 U.S.C. 6331 *et seq.*, Voluntary Transfers of Leave; and 5 CFR part 630, Absence and Leave.

PURPOSE(S):

These records are used in managing the Corporation's Voluntary Leave Sharing Program. The recipient's name, and a brief description of the hardship, if authorized by the recipient, are published internally for solicitation purposes. Used to ensure the transfer of leave from the donor's account to the recipient's account.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used (i) by other Federal agencies where the leave donor or leave recipient is employed by a different Federal agency; (ii) by the personnel and finance offices of another Federal agency involved to effectuate the leave transfer; and (iii) by OPIC timekeepers in order to debit and credit the leave accounts of donors and recipients.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders in locked file cabinets.

RETRIEVABILITY:

Files are indexed alphabetically by surname.

SAFEGUARDS:

Files are stored in a locked file cabinet. Only OPIC HRM staff have access to the office.

RETENTION AND DISPOSAL:

Records are retained for one year after the close of the leave sharing emergency and close of the case. Disposed of by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources Management, Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

NOTIFICATION PROCEDURE:

Requests by individuals concerning the existence of a record may be submitted in writing, addressed to the system manager above. The request must comply with the requirements of 22 CFR 707.21(b).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Requests by individuals to amend their record must be submitted in writing, addressed to the system manager above. Requests for amendments to records and requests for review of a refusal to amend a record must comply with the requirements of 22 CFR 707.22.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

OPIC–2

SYSTEM NAME:

Permanent Duty Relocation Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records pertaining to official relocation travel authorizations and reimbursements or payments, consisting of: Government bills of lading, records of invoice or payments, employee service agreements, insurance election forms, and correspondence related to relocation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 57, Travel, Transportation, and Subsistence.

PURPOSE(S):

These records are used to provide supporting documentation related to the authorization of government payment or reimbursement related to official relocation travel, and to document service agreements and employee and PSC insurance elections.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Used (i) as supporting documents for authorization for payment; (ii) as a record of invoice and payment; (iii) as a record of service agreement; and (iv) as a record of any employee elections (insurance).

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are stored in file folders in file cabinets.

RETRIEVABILITY:

Files are indexed alphabetically by surname.

SAFEGUARDS:

Files are stored in a locked metal file cabinet. The doors to OPIC's office in which these cabinets are located are locked outside of business hours or anytime the office is not staffed.

RETENTION AND DISPOSAL:

Records are retained for the period of the service agreement (generally 12 months) but not to exceed three years. Records are disposed of by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources Management, Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

NOTIFICATION PROCEDURE:

Requests by individuals concerning the existence of a record may be submitted in writing, addressed to the system manager above. The request must comply with the requirements of 22 CFR 707.21(b).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Requests by individuals to amend their record must be submitted in writing, addressed to the system manager above. Requests for amendments to records and requests for review of a refusal to amend a record must comply with the requirements of 22 CFR 707.22.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained and OPIC staff who manage the relocation process.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

OPIC–3

SYSTEM NAME:

Employee Security Badges.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Corporation and contractors whose official duties require frequent and continuing access to the Corporation's offices.

CATEGORIES OF RECORDS IN THE SYSTEM:

Badges contain a photograph of the individual with his or her surname, first name and middle initial, and a badge number. They also contain: Date of birth, color of hair, weight, date issued, height, and color of eyes. The badge is signed on the reverse side by the individual and countersigned by a representative of the Corporation. Duplicate photographs are retained and are used for renewal of badges.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E.O. 10450, Security Requirements for Government Employment, as amended; E.O. 10865, as amended, Safeguarding Classified Information Within Industry; and E.O. 12829, National Industrial Security Program.

PURPOSE(S):

These records are used to issue identification badges to employees of the Corporation to maintain proper building access and security controls.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Used by (i) OPIC management to allow access to Corporation premises; and (ii) by other agencies of the U.S. government to allow access to their premises.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Box containing duplicate photograph is filed in a locked office. Employees maintain possession of badges during their tenure with the Corporation.

RETRIEVABILITY:

Photograph is retrieved by likeness of individual.

SAFEGUARDS:

Records are maintained in an area which is accessible only to authorized security personnel.

RETENTION AND DISPOSAL:

Badges and duplicate photographs are destroyed upon termination of the individual's employment with or need for access to the Corporation's headquarters.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Contract and Administrative Services, Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

NOTIFICATION PROCEDURE:

Requests by individuals concerning the existence of a record may be submitted in writing, addressed to the system manager above. The request must comply with the requirements of 22 CFR 707.21(b).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Requests by individuals to amend their record must be submitted in writing, addressed to the system manager above. Requests for amendments to records and requests for review of a refusal to amend a record must comply with the requirements of 22 CFR 707.22.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None

OPIC–4

SYSTEM NAME:

Employee Exit Forms.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former employees of the Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Forms containing name, signature and date of signature of employees departing OPIC stating that they have been debriefed on the Corporation's records, policies and procedures, have been advised of and fully understand provisions on post employment conflicts of interest, and certifying that all required clearances for release of the employee's final pay check have been obtained.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; and 44 U.S.C. 3101, Records Management by Agency Heads.

PURPOSE(S):

These records are used to maintain a record of all debriefings and completed exit procedures for former employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Used (i) to verify that all departing employees have completed the checkout process; (ii) to ensure the security of OPIC-related information; (iii) to ensure that employees are briefed concerning post-employment restrictions; and (iv) if necessary, to disclose records to the Department of Justice for compliance or enforcement purposes.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in hard copy in file folders in a secure file room in a secure office suite accessible only by Central Files staff.

RETRIEVABILITY:

Records are indexed alphabetically by surname.

SAFEGUARDS:

Only authorized Central Files staff have access to the file room containing the records.

RETENTION AND DISPOSAL:

Records are retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Managing Director, Administration, Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

NOTIFICATION PROCEDURE:

Requests by individuals concerning the existence of a record may be submitted in writing, addressed to the system manager above. The request must comply with the requirements of 22 CFR 707.21(b).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Requests by individuals to amend their record must be submitted in writing, addressed to the system manager above. Requests for amendments to records and requests for

review of a refusal to amend a record must comply with the requirements of 22 CFR 707.22.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

OPIC–6

SYSTEM NAME:

Controlled Correspondence.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the general public, members of Congress, and others who correspond on a variety of official business matters with the Corporation, the President or the Executive Vice President of the Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Identification of writer, subject, date and disposition of correspondence, and copy of incoming and outgoing/reply correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; and 44 U.S.C. 3101, Records Management by Agency Heads.

PURPOSE(S):

These records are used to track official agency correspondence.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Used primarily to ascertain the status of correspondence to OPIC's President, Executive Vice President, or other OPIC officials to whom inquiries are directed. Disclosures outside the Corporation may be made: (i) To a Federal agency so that the agency may respond to an inquiry from the named individual; (ii) to the U.S. Department of Justice or in a proceeding before a court or adjudicative body; (iii) to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting a violation, when information indicates a violation or potential violation of a statute, regulation, rule, order or license; and (iv) to a Congressional office from the record of an individual in response to an inquiry the individual has made to the Congressional office.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in an automated database and in hard copy files.

RETRIEVABILITY:

Indexed by number, name of correspondent, organization/committee, subject(s), date, date received, and disposition.

SAFEGUARDS:

Records are maintained on a secure electronic database with access limited by password. Hard copy files are stored in file cabinets accessible only by authorized OPIC staff.

RETENTION AND DISPOSAL:

Records are retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative Assistant to the Executive Vice President, Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

NOTIFICATION PROCEDURE:

Requests by individuals concerning the existence of a record may be submitted in writing, addressed to the system manager above. The request must comply with the requirements of 22 CFR 707.21(b).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Requests by individuals to amend their record must be submitted in writing, addressed to the system manager above. Requests for amendments to records and requests for review of a refusal to amend a record must comply with the requirements of 22 CFR 707.22.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

OPIC–8

SYSTEM NAME:

Telephone Call Records.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Corporation and individuals assigned an OPIC telephone number or an OPIC calling card.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to the use of OPIC telephones to place long-distance calls; records relating to long-distance telephone calls charged to OPIC; and records indicating assignment of telephone numbers and authorized calling card numbers to individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 44 U.S.C. 3101, Records Management by Agency Heads; and 41 CFR part 101–35, Telecommunications Management Policy.

PURPOSE(S):

These documents are used to support the certification that telephone calls listed on call detail records were required for official business and to verify accuracy of telephone company charges.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Used (i) to cross reference data on charges sent by the telephone company; (ii) to disclose to members of Congress or their staff in response to an inquiry of the Congressional office made at the written request of the constituent about whom the record is maintained; (iii) to disclose to a court, a 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.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are stored on computer disks.

RETRIEVABILITY:

The records are indexed by employee phone number and/or calling card

number assigned to employee, and may be cross-indexed with employee name.

SAFEGUARDS:

The disks are stored in an office that is locked during non-business hours and available only to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are maintained for two years and disposed of by deleting electronic files.

SYSTEM MANAGER(S) AND ADDRESS:

Managing Director, Administration, Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

NOTIFICATION PROCEDURE:

Requests by individuals concerning the existence of a record may be submitted in writing, addressed to the system manager above. The request must comply with the requirements of 22 CFR 707.21(b).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Requests by individuals to amend their record must be submitted in writing, addressed to the system manager above. Requests for amendments to records and requests for review of a refusal to amend a record must comply with the requirements of 22 CFR 707.22.

RECORD SOURCE CATEGORIES:

Telecommunications staff in charge of assigning phone numbers to employees; employees who create records by placing phone calls; telecommunications companies who forward bills to the Corporation.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None

OPIC–10

SYSTEM NAME:

Transportation Subsidy Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees applying for transit subsidies for use of public transportation to and from the workplace.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, mode of transportation, commuting costs, and signature of applicant.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7905, Programs to Encourage Commuting by Means Other Than Single-Occupancy Motor Vehicles.

PURPOSE(S):

These records are used to maintain a record of active participants in the OPIC transportation subsidy program and to verify pickup of payments.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Used (i) to provide a record of participants eligible to receive subsidies under OPIC Directive 94–31; (ii) to provide monthly lists of applicants eligible to receive subsidies and forward the list for disbursement through the Department of Treasury; (iii) to verify employee participation and retrieval of METROchecks; and (iv) to respond to information requests from the General Accounting Office.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy records are stored in file folders.

RETRIEVABILITY:

Records are indexed by month and then by individual's surname.

SAFEGUARDS:

Files are stored in a locked metal file cabinet.

RETENTION AND DISPOSAL:

Records are retained for six years and three months and are disposed of by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources Management, Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

NOTIFICATION PROCEDURE:

Requests by individuals concerning the existence of a record may be submitted in writing, addressed to the system manager above. The request must comply with the requirements of 22 CFR 707.21(b).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Requests by individuals to amend their record must be submitted in writing, addressed to the system manager above. Requests for amendments to records and requests for review of a refusal to amend a record must comply with the requirements of 22 CFR 707.22.

RECORD SOURCE CATEGORIES:

Individuals on whom the records are maintained.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None

OPIC–11

SYSTEM NAME:

Freedom of Information Act (FOIA) Requests and Appeals.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals requesting information under FOIA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Letters, correspondence, relevant data provided or referenced and responses to FOIA requests and appeals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552, Administrative Procedure—Public Information.

PURPOSE(S):

These records are used to respond to FOIA requests and appeals pursuant to 5 U.S.C. 552.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Used (i) to process individuals' FOIA requests; (ii) to provide a record of communications between the requester and the Corporation; (iii) to ensure that all relevant, necessary and accurate data are available to support any process for appeal; and (iv) to prepare annual reports to the Attorney General of the United States as required by FOIA.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are stored in file folders in file cabinets.

RETRIEVABILITY:

Files are indexed alphabetically by surname.

SAFEGUARDS:

Files are stored in staff offices, access to which is limited to authorized OPIC employees.

RETENTION AND DISPOSAL:

Records are retained: (i) For two years from the date of OPIC's final response in cases where no appeal is filed; (ii) for six years from the date of OPIC's response to an appeal in cases where an appeal is filed; or (iii) for six years from the date of the court's final order in cases involving litigation. Records are disposed of by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

FOIA Director, Department of Legal Affairs, Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

NOTIFICATION PROCEDURE:

Requests by individuals concerning the existence of a record may be submitted in writing, addressed to the system manager above. The request must comply with the requirements of 22 CFR 707.21(b).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Requests by individuals to amend their record must be submitted in writing, addressed to the system manager above. Requests for amendments to records and requests for review of a refusal to amend a record must comply with the requirements of 22 CFR 707.22.

RECORD SOURCE CATEGORIES:

Individuals requesting information under FOIA and assigned OPIC attorneys generating responses or other pertinent OPIC employees.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

OPIC–13

SYSTEM NAME:

Contractor Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals currently and formerly contracted by the Corporation to serve as personal services contractors (PSCs) or as consultants to the Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records maintained contain a copy of the contract/amendments and the history of the contractual relationship, including, as applicable, time and attendance records, salary calculations or earnings records, invoices/procurement documents, direct deposit forms, and tax forms. Procurement requests and payment information are maintained by the Treasurer. Records maintained by Human Resources Management include, as applicable, security forms and the level of security clearance, public vouchers for health expense reimbursement, emergency numbers, employment offer letters, injury or illness claims, resumes and related application materials, copies of contracts and related modifications and extensions, conditions of services agreed to by PSCs, Declarations for Federal Employment, rate determinations, and training requests and agreements. Each department maintains its own records, including contracts, time and attendance records, and records, as applicable, of the qualifications, performance, and evaluation of the contractor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

22 U.S.C. 2199(d), General Provisions and Powers—Powers of the Corporation.

PURPOSE(S):

These records are used to determine eligibility for contractual employment, to provide background information for the purpose of counseling PSCs regarding their status and contract/employment conditions, to make pay determinations, and to administer or modify contracts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Used (i) to provide information to support requests or clearances for pay adjustments; (ii) to document certain aspects of employment conditions; (iii) to initiate and clear recommendations concerning contracts; (iv) to determine and allocate OPIC departmental budgets; (v) to provide information to the Department of Labor, Office of Workers' Compensation to process work-related illness and injury claims; (vi) to report earnings information to the Internal Revenue Service and the Social Security Administration; (vii) to refer, where there is an indication of a violation or potential violation of law, whether criminal, civil, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating and prosecuting such violation or charged with enforcing or implementing the statute, rule, regulations, or order issued pursuant thereto; (viii) to request information from a Federal, State, or local agency, maintaining civil, criminal, or other relevant enforcement information or other pertinent information and to request information from private individuals if necessary to obtain information relevant to an OPIC decision concerning the hiring, retention, or promotion of an employee, the issuance of a security clearance, or other decision within the purposes of this system of records; (ix) to provide information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee or the letting of a contract; (x) to verify name, position title, grade, salary and duty station to prospective employers. These records may also be provided to an administrative body or court in any administrative or legal proceeding to which the Corporation is a party.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in hard copy in file folders and electronically on automated data storage devices.

RETRIEVABILITY:

Records are retrievable by contractor name.

SAFEGUARDS:

Hard copy files are stored in OPIC staff offices in locked file cabinets accessible by authorized OPIC staff only. Electronic records are password protected and accessible by authorized OPIC staff only.

RETENTION AND DISPOSAL:

Financial records are retained for six years and three months after the close of the fiscal year to which they pertain. Personnel records are retained for up to twelve months after the resignation of the PSC or the termination of the contract. Records are disposed of by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Contract and Administrative Services, Overseas Private Investment Corporation, 1100 New York Avenue, NW, Washington, DC 20527.

NOTIFICATION PROCEDURE:

Requests by individuals concerning the existence of a record may be submitted in writing, addressed to the system manager above. The request must comply with the requirements of 22 CFR 707.21(b).

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Requests by individuals to amend their record must be submitted in writing, addressed to the system manager above. Requests for amendments to records and requests for review of a refusal to amend a record must comply with the requirements of 22 CFR 707.22.

RECORD SOURCE CATEGORIES:

Individuals to whom the records pertain; educational institutions, former employers, and other reference sources; OPIC supervisors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: June 30, 1999.

James R. Offutt,

Assistant General Counsel, Department of Legal Affairs.

[FR Doc. 99–17447 Filed 7–8–99; 8:45 am]

BILLING CODE 3210–01–U

INTERNATIONAL TRADE COMMISSION

[Investigation No. AA1921–114 (Review)]

Stainless Steel Plate From Sweden

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act), that revocation of the antidumping finding on stainless steel plate from Sweden would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2]

Background

The Commission instituted this review on August 3, 1998 (63 FR 41288) and determined on November 5, 1998 that it would conduct a full review (63 FR 63748, November 16, 1998). Notice of the scheduling of the Commission's review and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on December 24, 1998 (63 FR 71300). The hearing was held in Washington, DC, on May 11, 1999, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this review to the Secretary of Commerce on July 6, 1999. The views of the Commission are contained in USITC Publication 3204 (July 1999), entitled Stainless Steel Plate from Sweden: Investigation No. AA1921–114 (Review).

By order of the Commission.

Issued: July 6, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–17478 Filed 7–8–99; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Chairman Bragg dissenting.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Sunshine Meeting Notice

AGENCY: United States International Trade Commission.

ACTION: Notice.

TIME AND DATE: July 13, 1999 at 11:00 a.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: None
2. Minutes
3. Ratification List
4. Inv. No. AA1921–129 (Review) (Polychloroprene Rubber from Japan)—briefing and vote. (The Commission will transmit its determination to the Secretary of Commerce on July 26, 1999.)
5. Inv. No. 731–TA–5396A (Final) (Uranium from Kazakhstan)—briefing and vote. (The Commission will transmit its determination to the Secretary of Commerce on July 23, 1999.)
6. Outstanding action jackets:
   (1) Document No. EC–99–012: Approval of final report in Inv. No. 332–403 (Assessment of the Economic Effects on the United States of China's Accession to the WTO).
   (2) Document NO. GC–99–057: Regarding Inv. No. 337–TA–412 (Certain Video Graphics Display Controllers and Products Containing Same).

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: July 6, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–17599 Filed 7–7–99; 1:03 pm]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review: Application for voluntary departure under the family unity program.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on February 19, 1999 at 64 FR 8404, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until August 9, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Stuart Shapiro, Department of Justice Desk Officer, Room 10235, Washington, DC 20530; 202–395–7316.

Written comments and suggestions from the public and effected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Reinstatement without change of a previously approved collection.

(2) *Title of the Form/Collection:* Application for Voluntary Departure Under the Family Unity Program.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–817. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. The Family Unity Program provides for the voluntary departure of the spouse and unmarried children who are not eligible for the same status as the legalized alien they are related to.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 23,944 responses at 2 hours and 35 minutes (2.583) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 61,847 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 525 I Street, NW, Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: July 2, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 99–17415 Filed 7–8–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Correction to Solicitation for a Cooperative Agreement

SUMMARY: The Department of Justice (DOJ), National Institute of Corrections (NIC), announces a correction to the notice of a solicitation for a cooperative agreement in Fiscal Year 1999 for ''Development of a Training Video on Staff Sexual Misconduct'' which was printed in the June 25, 1999 edition (Volume 64, Number 122) of the **Federal Register**. On page 34269 in the third column, in paragraph four of the notice, the second sentence should be corrected to read as follows:

A total of $80,000 is reserved for the project which will support one cooperative agreement for an 8 month period.

ADDRESSES AND FURTHER INFORMATION: Judy Evens, Cooperative Agreement Control Office, National Institute of Corrections, 320 First Street, NW, Room 5007, Washington, DC 20534 or by calling (800) 995–6423, extension 159 or (202) 307–3106, extension 159. E-mail *jevens@bop.gov*. All technical and/or programmatic questions concerning this announcement should be directed to Andie Moss at the above address or by calling (800) 995–6423, or (202) 307–3106, extension 140, or by E-mail via *amoss@bop.gov*. Application forms may also be obtained through the NIC website: *http:www.nicic.org.*

NIC Application Number: 99P12. This number should appear as a reference line in the cover letter and also in box 11 of Standard Form 424.

The Catalog of Federal Domestic Assistance number is: 16.501.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 99–17410 Filed 7–8–99; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Acting Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 19, 1999.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 19, 1999.

The petitions filed in this case are available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 14th day of June, 1999.

Linda G. Poole,

Program Manager, Office of Trade Adjustment Assistance.

Appendix

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
36,365 ..	Ashland Speciality Chem. (Comp) ...	Plaquemine, LA	05/26/1999	Chemicals.
36,366 ..	Southern Lady Sportswear (Wrks) ...	Killen, AL	05/24/1999	T-Shirts.
36,367 ..	Hoov-R-Line (Comp)	Providence, KY	06/01/1999	Plastic Plumbing Components.
36,368 ..	General Cigar Co. (Comp)	Dothan, AL	05/12/1999	Cigars.
36,369 ..	Wyman Gordon Albany (Wrks)	Albany, OR	05/25/1999	Oil.
36,370 ..	L.V. Myles, Inc (Wrks)	New York, NY	06/01/1999	Headquarters Office—Sleepwear.
36,371 ..	Gesco International (Comp)	San Antonio, TX	05/03/1999	Venous Catheters and Other Medical Devices.
36,372 ..	Shadowline, Inc (Comp)	Mars Hill, NC	05/28/1999	Ladies' Intimate Apparel.
36,373 ..	Morganton Mfg Co (Wrks)	Knoxville, TN	05/26/1999	Military Flight Jackets.
36,374 ..	Rockwell Automation (Wrks)	Shelby, NC	05/21/1999	Electric Motors.
36,375 ..	Allied Signal, Inc. (USWA)	Ironton, OH	04/22/1999	Tar Products.
36,376 ..	Trim Master, Inc. (Comp)	R. Cucamongo, CA	05/28/1999	Automotive Wood Trim.
36,377 ..	Modern Machine Works, Inc (PACE)	Cudahy, WI	05/24/1999	Connecting Rods.
36,378 ..	Eckel Manufacturing, Inc (Wrks)	Odessa, TX	05/14/1999	Oilfield Power Tong.
36,379 ..	Ayers Manufacturing Co. (Comp)	Coward, SC	05/25/1999	Knit Shirts.
36,380 ..	Smurfit Stone (PACE)	LaPorte, IN	05/18/1999	Corrugated Sheets and Containers.
36,381 ..	Technaflow (IASMW)	Vancouver, WA	05/27/1999	Valve and Controls.
36,382 ..	Philips Components (Comp)	Saugerties, NY	05/19/1999	Yoke Rings.
36,383 ..	N.G.K. Locke Insulators (UE)	Baltimore, MD	05/14/1999	Gas Bushing Insulators.
36,384 ..	John Hester Textiles (Wrks)	Orwigsburg, PA	05/24/1999	Cotton Fleece Sweatshirts.
36,385 ..	Chicago Miniture Lamps (Wrks)	Wynnewood, OK	05/25/1999	Light Bulbs.
36,386 ..	A.A. Fogley Co., Inc (Wrks)	Paris, AR	05/22/1999	Men's Dress and Casual Slacks.
36,387 ..	Sylvia Hat, Inc. (UNITE)	St. Louis, MO	05/27/1999	Ladies' Hats.
36,388 ..	Heel Rite (UNITE)	Wright City, MO	05/27/1999	Shoe Heels and Soles.
36,389 ..	Safecar, Inc. (Wrks)	San Angelo, TX	05/0-7/1999	Armored Vehicles.
36,390 ..	Motorola (Comp)	Phoenix, AZ	05/31/1999	Semiconductors.
36,391 ..	D.Q.C. (Wrks)	Tucson, AZ	06/02/1999	Cultured Marble.
36,392 ..	Devro-Teepak, Inc. (Wrks)	Danville, IL	05/19/1999	Casings for Meat.
36,393 ..	Fruit of The Loom (Wrks)	Campbellsville, KY	06/03/1999	Underwear and Fleecewear Distribution.
36,394 ..	Lambda Electronics, Inc. (Comp)	McAllen, TX	06/04/1999	Power Supplies and Metal Stampings,.
36,395 ..	Circle DE Lumber (Wrks)	Klamath Falls, OR	06/01/1999	Wood Chips, Wood Poles and Posts.
36,396 ..	Horn Textile, Inc. (Comp)	Titusville, PA	06/02/1999	Woven Narrow Fabrics.
36,397 ..	Techneglas, Inc. (GMP)	Pittston, PA	05/18/1999	Glass for TV Screens.
36,398 ..	Majestic Lace Corp. (UNITE)	Union City, NJ	05/27/1999	Bridal Dresses.
36,399 ..	Anderson Brothers (Wrks)	Wausau, WI	05/21/1999	Rough Blocks, Slabs and Finished Granite.
36,400 ..	Elementis Pitments, Inc. (Wrks)	East St. Louis, IL	05/21/1999	Synthetic Iron Oxide Pigments.
36,401 ..	Coeur Rochester, Inc. (Comp)	Lovelock, NV	06/02/1999	Mine Gold.
36,402 ..	BWD Automotive, Alabama (Comp)	Selma, AL	05/07/1999	Automobile Locking Devices.
36,403 ..	Evans Machine Works, Inc. (Wrks)	Hobbs, NM	06/01/1999	Repair Oilfield Equipment.
36,404 ..	CXY Energy, Inc. (Wrks)	Dallas, TX	06/01/1999	Oil and Gas.
36,405 ..	First Reserve Oil and Gas (Comp) ..	Houston, TX	06/03/1999	Oil and Gas.
36,406 ..	Baker Hughes Centrilift (Comp)	Claremore, OK	05/21/1999	Submersible Pumps.
36,408 ..	Geo-Log, Inc (Comp)	Granbury, TX	05/18/1999	Oilfield Measuring Equipment.
36,409 ..	Barrett Resources Corp. (Wrks)	Tulsa, OK	05/25/1999	Oil and Gas.
36,410 ..	Grey Wolf, Inc. (Wrks)	Houston, TX	05/22/1999	Oil and Gas Drilling.
36,411 ..	Apache Corp (Wrks)	Houston, TX	05/17/1999	Drilling and Prod. of Oil and Gas.

[FR Doc. 99–17438 Filed 7–8–99; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,938 and TA–W–35,938A]

Day-Timers, Inc., East Texas, PA and Abe Facility, Allentown, PA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (18 U.S.C. 2273) the Department Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 28, 1999, applicable to all workers of Day-Timers, Inc., located in East Texas, Pennsylvania. The notice will be published soon in the **Federal Register**.

At the request of the company, the Department reviewed the certification for workers of the subject firm. New information shows that worker separation occurred at the ABE facility, Allentown, Pennsylvania location of Day-Timers, Inc. The workers are engaged in the production of paper-based business planners and calendars as well as provide administrative, sales and support function services.

The intent of the Department's certification is to include all workers of Day-Timers, Inc., who were adversely affected by increased imports. Accordingly, the Department is amending the certification to cover the workers of Day-Timers, Inc., ABE facility, Allentown, Pennsylvania.

The amended notice applicable to TA–W–35,938 is hereby issued as follows:

All workers of Day-Timers, Inc., East Texas, Pennsylvania (TA–W–35,938). and the ABE facility, Allentown, Pennsylvania (TA–W–35,938A) who became totally or partially separated from employment on or after March 17, 1998 through May 28, 2001 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 30th day of June, 1999.

Linda G. Poole,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–17434 Filed 7–8–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,067]

Original Bradford Soap Works Incorporated, West Warwick, Rhode Island; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on April 19, 1999, in response to a worker petition filed on behalf of workers at Original Bradford Soap Works, Incorporated, West Warwick, Rhode Island.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 23rd day of June, 1999.

Linda G. Poole,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–17436 Filed 7–8–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,752]

Rhodia Rare Earths, Inc., Freeport, TX: Including Leased Workers of Kelly Services, Lake Jackson, TX, Gulf States, Freeport, TX, CDI Engineering, Freeport, TX; Amended Certification of Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 30, 1999, applicable to all workers of Rhodia Rare Earths, Inc. located in Freeport, Texas. The notice was published in the **Federal Register** on May 21, 1999 (64 FR 27812).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New information shows that workers of Rhodia Rare Earths, Inc. were leased from Kelly Services, Lake Jackson, Texas, Gulf States and CDI Engineering, Freeport, Texas to produce rare earth chemical compounds (cerium carbonate, cerium oxide, cerium hydroxide and neodymium) at the Freeport, Texas facility. Worker separations occurred that these companies as a result of worker separations at Rhodia Rare Earths, Inc., Freeport, Texas.

Based on these findings, the Department is amending the certification to include leased workers from Kelly Services, Lake Jackson, Texas, Gulf States and CDI Engineering, Freeport, Texas.

The intent of the Department's certification is to include all workers of Rhodia Rare Earths, Inc. adversely affected by imports.

The amended notice applicable to TA–W–35,752 is hereby issued as follows:

All workers of Rhodia Rare Earths, Inc. Freeport, Texas and leased workers of Kelly Services, Lake Jackson, Texas, Gulf States and CDI Engineering, Freeport, Texas engaged in employment related to the production of rare earth chemical compounds (cerium carbonate, cerium oxide, cerium hydroxide and neodymium) at Rhodia Rare Earths, Inc., Freeport, Texas who became totally or partially separated from employment on or after February 1, 1998 through April 30, 2001 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 28th day of June, 1999.

Linda G. Poole,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–17433 Filed 7–8–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,711, et. al.]

Sperry-Sun Drilling Service, Div. of Dresser Industries, Inc., Baroid Drilling Fluids, Headquartered in Houston, Texas

Operating out of other locations in the following states:

TA–W–35–711A ALASKA
TA–W–35–711B CALIFORNIA
TA–W–35–711C LOUISIANA
TA–W–35–711D MICHIGAN
TA–W–35–711E OKLAHOMA
TA–W–35–711F TEXAS
TA–W–35–711G WYOMING

[TA–W–35,711AA]

Baroid Drilling Fluids, Div. of Dresser, Industries, Inc., Headquartered, in Houston, Texas

Operating out of other locations in the following states:

TA–W–35–711AB ALASKA
TA–W–35–711AC ARKANSAS
TA–W–35–711AD ARIZONA
TA–W–35–711AE CALIFORNIA
TA–W–35–711AF COLORADO
TA–W–35–711AG GEORGIA
TA–W–35–711AH IOWA
TA–W–35–711AI KANSAS
TA–W–35–711AJ LOUISIANA
TA–W–35–711AK MISSOURI
TA–W–35–711AL NEW MEXICO
TA–W–35–711AM NEVADA
TA–W–35–711AN OHIO
TA–W–35–711AO OKLAHOMA
TA–W–35–711AP PENNSYLVANIA
TA–W–35–711AQ TEXAS
TA–W–35–711AR WYOMING
TA–W–35–711AS MISSISSIPPI
TA–W–35–711AT ALABAMA

[TA–W–35,711BA]

Security DBS, Div. of Dresser Industries, Inc., Headquarters in Dallas, Texas

Operating out of other locations in the following states:

TA–W–35–711BB COLORADO
TA–W–35–711BC LOUISIANA
TA–W–35–711BD OKLAHOMA

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a

Certification of Eligibility to Apply for Worker Adjustment Assistance on March 22, 1999, applicable to all workers of Baroid Drilling Fluids headquartered in Houston, Texas. The notice was published in the **Federal Register** on May 11, 1999 (64 FR 25372)

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in various activities related to the drilling for crude oil and natural gas. Findings show the Department incorrectly set the worker certification impact date at February 17, 1998. The impact date should be February 10, 1998, one year prior to the date of the petition.

Accordingly, the Department is amending the certification to properly reflect this matter.

In accordance with the provisions of the Act, I make the following certification:

All workers of Sperry-Sun Drilling Services, a Div. of Dresser Industries, Inc., Houston, Texas (TA–W–35,711) and operating out of other locations in the following states Alaska (TA–W–35,711A), California (TA–W–35,711B), Louisiana (TA–W–35,711C), Michigan (TA–W–35,711D), Oklahoma (TA–W–35,711E), Texas (TA–W–35,711F) and Wyoming (TA–W–35,711G); Bariod Drilling Fluids, a Div. of Dresser Industries, Inc., Houston, Texas (TA–W–35,711AA) and operating out of other locations in the following states Alaska (TA–W–35,711AB), Arkansas (TA–W–35,711AC), Arizona (TA–W–35,711AD), California (TA–W–35,711AE), Colorado (TA–W–35,711AF), Georgia (TA–W–35,711AG), Iowa (TA–W–35,711AH), Kansas (TA–W–35,711AI), Louisiana (TA–W–35,711AJ), Missouri (TA–W–35,711AK), New Mexico (TA–W–35,711AL), Nevada (TA–W–35,711AM), Ohio (TA–W–35,711AN), Oklahoma (TA–W–35,711AO), Pennsylvania (TA–W–35,711AP), Texas (TA–W–35,711AQ), and Arkansas (TA–W–35,711AR) and Security DBS, a Div. of Dresser Industries, Inc., Dallas, Texas (TA–W–35,711BA) and operating out of other locations in the following states: Colorado (TA–W–35,711BB), Louisiana (TA–W–35,711BC), Oklahoma (TA–W–35,711BD) and Texas (TA–W–35,711BE) who became totally or partially separated from employment on or after February 10, 1998, through March 22, 2001 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 30th day of June, 1999.

Linda G. Poole,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–17435 Filed 7–8–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–03016; NAFTA–03016A]

Day-Times, Inc., East Texas, PA; ABC Facility, Allentown, Pennsylvania; Amended Certification of Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with Section 250(A), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974 (18 U.S.C. 2273), the Department Labor issued a Certification for NAFTA Transitional Adjustment Assistance on May 28, 1999, applicable to all workers of Day-Timers, Inc., located in East Texas, Pennsylvania. The notice will be published soon in the **Federal Register**.

At the request of the company, the Department reviewed the certification for workers of the subject firm. New information shows that worker separations occurred at the ABE facility, Allentown, Pennsylvania location of Day-Timers, Inc. The workers are engaged in the production of paper-based business planners and calendars as well as provide administrative, sales and support function services.

The intent of the Department's certification is to include all workers of Day-Timers, Inc. who were adversely affect by increased imports from Mexico and Canada.

Accordingly, the Department is amending the certification to cover the workers of Day-Timers, Inc., ABE facility, Allentown, Pennsylvania.

The amended notice applicable to NAFTA–03016 is hereby issued as follows:

All workers of Day-Timers, Inc., East Texas, Pennsylvania (NAFTA–03016), and the ABE facility, Allentown, Pennsylvania (NAFTA–03016A) who became totally or partially separated from employment on or after March 17, 1998 through May 28, 2001 are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, DC, this 30th day of June, 1999.

Linda G. Poole,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–17437 Filed 7–8–99; 8:45 am]

BILLING CODE 4510–30–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 smaller character and in the localities specified therein.

The determination 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 encourage 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 Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

New General Wage Determination Decision

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 II

Virginia
VA990105 (Jul. 09, 1999)

Modifications to General Wage Determination Decisions

The number of decisions listed in the Govenrment Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Act'' 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

New Jersey
NJ990002 (Mar. 12, 1999)
NJ990003 (Mar. 12, 1999)

Volume II

District of Columbia
DC990001 (Mar. 12, 1999)
DC990003 (Mar. 12, 1999)
Delaware
DE990001 (Mar. 12, 1999)
DE990002 (Mar. 12, 1999)
DE990004 (Mar. 12, 1999)
DE990005 (Mar. 12, 1999)
DE990009 (Mar. 12, 1999)
Maryland
MD990034 (Mar. 12, 1999)
MD990036 (Mar. 12, 1999)
MD990048 (Mar. 12, 1999)
MD990056 (Mar. 12, 1999)
MD990057 (Mar. 12, 1999)
Virginia
VA990003 (Mar. 12, 1999)
VA990015 (Mar. 12, 1999)
VA990025 (Mar. 12, 1999)
VA990035 (Mar. 12, 1999)
VA990039 (Mar. 12, 1999)
VA990046 (Mar. 12, 1999)
VA990048 (Mar. 12, 1999)
VA990052 (Mar. 12, 1999)
VA990058 (Mar. 12, 1999)
VA990078 (Mar. 12, 1999)
VA990079 (Mar. 12, 1999)
VA990084 (Mar. 12, 1999)
West Virginia
WV990002 (Mar. 12, 1999)
WV990003 (Mar. 12, 1999)
WV990006 (Mar. 12, 1999)

Volume III

Alabama
AL990007 (Mar. 12, 1999)
AL990008 (Mar. 12, 1999)
AL990052 (Mar. 12, 1999)
South Carolina
SC990023 (Mar. 12, 1999)

Volume IV

Illinois
IL990001 (Mar. 12, 1999)
IL990006 (Mar. 12, 1999)
IL990008 (Mar. 12, 1999)
IL990009 (Mar. 12, 1999)
IL990011 (Mar. 12, 1999)
IL990012 (Mar. 12, 1999)
IL990046 (Mar. 12, 1999)
IL990053 (Mar. 12, 1999)
IL990057 (Mar. 12, 1999)
IL990058 (Mar. 12, 1999)
Indiana
IN990002 (Mar. 12, 1999)
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Wisconsin
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WI990069 (Mar. 12, 1999)

Volume V

Missouri
MO990001 (Mar. 12, 1999)
MO990002 (Mar. 12, 1999)
MO990003 (Mar. 12, 1999)
MO990004 (Mar. 12, 1999)
MO990005 (Mar. 12, 1999)
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MO990056 (Mar. 12, 1999)
MO990062 (Mar. 12, 1999)
MO990064 (Mar. 12, 1999)
MO990065 (Mar. 12, 1999)
MO990067 (Mar. 12, 1999)
MO990068 (Mar. 12, 1999)
MO990070 (Mar. 12, 1999)
MO990071 (Mar. 12, 1999)

Volume VI

Idaho
ID990001 (Mar. 12, 1999)
ID990002 (Mar. 12, 1999)
ID990003 (Mar. 12, 1999)
ID990013 (Mar. 12, 1999)
ID990014 (Mar. 12, 1999)
Oregon
OR990001 (Mar. 12, 1999)
OR990017 (Mar. 12, 1999)
Utah
UT990001 (Mar. 12, 1999)
UT990004 (Mar. 12, 1999)
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Washington
WA990001 (Mar. 12, 1999)
WA990002 (Mar. 12, 1999)
WA990003 (Mar. 12, 1999)

WA990007 (Mar. 12, 1999)
WA990008 (Mar. 12, 1999)
WA990011 (Mar. 12, 1999)

Volume VII

Arizona
AZ990001 (Mar. 12, 1999)
AZ990002 (Mar. 12, 1999)
AZ990004 (Mar. 12, 1999)
AZ990005 (Mar. 12, 1999)
AZ990006 (Mar. 12, 1999)
AZ990010 (Mar. 12, 1999)
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AZ990014 (Mar. 12, 1999)
AZ990015 (Mar. 12, 1999)
AZ990016 (Mar. 12, 1999)
AZ990017 (Mar. 12, 1999)
California
CA990029 (Mar. 12, 1999)

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, D.C. 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 2nd day of July 1999.

Margaret J. Washington,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 99–17299 Filed 7–8–99; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Meeting Notice

TIME AND DATE: 9:30 a.m., Tuesday, July 13, 1999.

PLACE: NTSB Board Room, 5th Floor, 490 L'Enfant Plaza, S.W., Washington, D.C. 20594.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

7177—Railroad Summary Report: Collision of Norfolk Southern Corporation (Norfolk Southern) Train 255L5 with Consolidated Rail Corporation (Conrail) Train TV 220 in Butler, Indiana, on March 25, 1998.

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

Individuals requesting specific accommodation should contact Mrs. Barbara Bush at (202) 314–6220 by Friday, July 9, 1999.

FOR MORE INFORMATION CONTACT: Rhonda Underwood, (202) 314–6065.

Dated: July 7, 1999.

Rhonda Underwood,

Federal Register Liaison Officer.

[FR Doc. 99–17598 Filed 7–7–99; 1:06 pm]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

Washington Public Power Supply System

[Docket No. 50–397]

Nuclear Project No. 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from Facility Operating License No. NPF–21, issued to the Washington Public Power Supply System (the licensee), for operation of the Washington Nuclear Project No. 2 (WNP–2), located in Benton County, Washington.

Environmental Assessment

Identification of the Proposed Action

The proposed one-time exemption to 10 CFR 55.59(a)(2), would allow the licensee to extend the completion date for the administration of the annual licensed operator examinations for the WNP–2 requalification program from October 23, 1999, to February 12, 2000.

The proposed action is in accordance with the licensee's application for exemption dated May 7, 1999.

The Need for the Proposed Action

The schedular exemption is requested on a one-time only basis due to WNP–2 transitioning from a 12-month to a 24-month fuel cycle. As part of this transition, the Spring 1999 refueling outage has been moved to the Fall 1999 time frame. The current scheduled annual operating test conflicts with the Fall refueling outage. This one-time exemption will allow additional licensed operator support during the current refueling outage, which will provide a safety enhancement during plant shutdown operations, enhance post-maintenance testing and eliminate the need to conduct annual operating tests on overtime which will reduce operator fatigue. The affected licensed operators will continue to demonstrate and possess the required levels of knowledge, skills, and abilities needed to safely operate the plant throughout the extension period via continuation of the current satisfactory licensed operator requalification program. In meeting the requirement for the administration of the annual operating tests as currently scheduled, the refueling outage could be prolonged without a net benefit to safety, and would otherwise have a detrimental effect on the public interest.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes, since the operators will continue to participate in a requalification program, they will maintain their knowledge, skills, and abilities needed to safely operate the plant through the extension period.

The proposed exemption 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 for the Washington Public Power System Nuclear Project No. 2 dated December 1981.

Agencies and Persons Consulted

In accordance with its stated policy, on June 4, 1999, the staff consulted with the Washington State official, Mr. Crowley of the Department of Health, State of Washington Energy Facility Site Evaluation Council, 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 action.

For further details with respect to the proposed action, see the licensee's letter dated May 7, 1999, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW, Washington, DC, and at the local public document room located at the Richland Public Library, 955 Northgate Street, Richland, Washington 99352.

Dated at Rockville, Maryland, this 30th day of June 1999.

For The Nuclear Regulatory Commission.

Jack Cushing,

Project Manager, Section 2, Project Directorate IV & Decommissioning Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–17430 Filed 7–8–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Change of Control and About Bankruptcy Involving Byproduct, Source, or Special Nuclear Material Licenses, Availability of Draft NUREG

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of Availability and request for comments.

SUMMARY: NRC is announcing the availability of and requesting comment on draft NUREG–1556, Volume 15, ''Consolidated Guidance about Materials Licenses: Guidance about Change of Control and about Bankruptcy Involving Byproduct, Source, or Special Nuclear Material Licenses,'' dated May 1999.

NRC is using Business Process Redesign techniques to redesign its materials licensing process, as described in NUREG–1539, ''Methodology and Findings of the NRC's Materials Licensing Process Redesign.'' A critical element of the new process is consolidating and updating numerous guidance documents into a NUREG-series of reports. This draft NUREG report is the 15th guidance document developed to support an improved materials licensing process.

This guidance is intended for use by applicants, licensees, and NRC staff, and will also be available to Agreement States. This document combines and updates the guidance found in NRC Information Notice 89–25, Rev. 1: ''Unauthorized Transfer of Ownership or Control of Licensed Activities''; NRC Information Notice 97–30: ''Control of Licensed Material During Reorganizations, Employee-Management Disagreements, and Financial Crises''; and Policy and Guidance Directive 8–11, ''NMSS Procedures for Reviewing Declarations of Bankruptcy.'' Upon publication in final form, the guidance in this report will supersede Policy and Guidance Directive 8–11. This draft report takes a more risk-informed, performance-based approach to evaluating changes of control or bankruptcy of byproduct, source, and special nuclear material licensees, reducing the information (amount and level of detail) needed to properly inform NRC of a change of control or bankruptcy. Note that this document is strictly for public comment and is not for use in preparing or reviewing notifications of changes of control or bankruptcy until it is published in final form. It is being distributed for comment to encourage public participation in its development.

DATES: The comment period ends October 7, 1999. Comments received after that time will be considered if practicable.

ADDRESSES: Submit written comments to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Hand-deliver comments to 11545 Rockville Pike, Rockville, Maryland, between 7:15 a.m. and 4:30 p.m. on Federal workdays. Comments may also be submitted through the Internet by addressing electronic mail to dlm1@nrc.gov.

Those considering public comment may request a free single copy of draft NUREG–1556, Volume 15, by writing to the U.S. Nuclear Regulatory Commission, ATTN: Mrs. Sally L. Merchant, Mail Stop TWFN 9–F–31, Washington, DC 20555–0001. Alternatively, submit requests through the Internet by addressing electronic mail to slm2@nrc.gov. A copy of draft NUREG–1556, Volume 15, is also available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, D.C. 20555–0001.

The Presidential Memorandum dated June 1, 1998, entitled, ''Plain Language in Government Writing,'' directed that the Federal government's writing be in plain language. The NRC requests comments on this licensing guidance NUREG specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed above.

FOR FURTHER INFORMATION CONTACT: Mrs. Sally L. Merchant, Mail Stop TWFN 9–F–31, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (301) 415–7874; electronic mail address: *slm2@nrc.gov.*

Electronic Access

Draft NUREG–1556, Vol. 15 is available electronically by visiting NRC's Home Page *(http://www.nrc.gov/nrc/nucmat.html).*

Dated at Rockville, Maryland, this 29th day of June, 1999.

For the Nuclear Regulatory Commission.

Patricia K. Holahan,

Acting Chief, Rulemaking and Guidance Branch, Division of Industrial and Medical Nuclear Safety, NMSS.

[FR Doc. 99–17431 Filed 7–8–99; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Dallas Gold and Silver Exchange, Inc., Common Stock, $.01 Par Value Per Share) File No. 1–11048

July 2, 1999.

Dallas Gold and Silver Exchange, Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'') and rule 12d2–2(d) promulgated thereunder, to withdraw the security specified above (''Security'') from listing and registration on the Emerging Company Marketplace of the American Stock Exchange LLC (''Amex'' or ''Exchange'').

The Security has been listed for trading on the Amex and on June 29, 1999, pursuant to a Registration Statement on Form 8–A, became designated for quotation and was admitted into trading on the Nasdaq Small-Cap Market (''Nasdaq'').

The Security of the Company was one of the initial securities approved for listing on the Amex's Engineering Company Marketplace approximately six years ago, but is now one of only nine such securities which continue to trade in this marketplace. The Company contends that the reduced stature of the Amex's Emerging Company Marketplace, in conjunction with the special symbol extensions assigned to securities listed thereon, has resulted in both very limited publication in the media of trading information regarding the Security and reduced access to timely trading data from the tape concerning transactions in the Security. Moreover, in seeking quotation of the Security on the Nasdaq, the Company believes that the variety of market makers available on the Nasdaq will provide greater depth, continuity and liquidity for the Company's shareholders.

The Company has complied with the rules of the Amex by filing with the Exchange a certified copy of the resolutions adopted by the Board of Directors of the Company authorizing the withdrawal of the Security from listing on the Amex and by setting forth in detail to the Exchange the reasons for such proposed withdrawal, and the facts in support thereof.

The Amex has informed the Company of its determination not to interpose any objection to the Company's application to withdraw its Security from listing and registration on the Exchange.

The Company's application relates solely to the withdrawal from listing of the Company's Security on the Emerging Company Marketplace of the Amex and shall have no effect upon the continued designation of the Security for quotation on the Nasdaq and registration pursuant to section 12(g) of the Act. By reason of section 12(g) of the Act and the rules and regulations of the Commission thereunder, the Company shall continue to be obligated to file reports under section 13 of the Act with the Commission.

Any interested person may, on or before July 23, 1999, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–17462 Filed 7–8–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–23889; File No. 812–11662]

The Equitable Life Assurance Society of the United States, et al.

July 2, 1999.

AGENCY: Securities and Exchange Commission (the ''Commission'' or ''SEC'').

ACTION: Notice of application for an order under section 6(c) of the Investment Company Act of 1940 (the ''1940 Act'' or the ''Act'') to amend a prior order of the Commission under section 6(c) of the 1940 Act which granted exemptions from the provisions of sections 2(a)(32), 22(c), and 27(i)(2)(A) of the Act and Rule 22c–1 thereunder to permit the recapture of credits applied to contributions made under certain deferred variable annuity contracts.

SUMMARY OF APPLICATION: Applicants seek an order under section 6(c) of the 1940 Act to amend a prior order under section 6(c) of the Act (''Prior Order'') that, to the extent necessary, permits, under specified circumstances, the recapture of credits equal to 3% of contributions made under deferred variable annuity contracts and certificates (the ''Contracts'') that Equitable issues through the Separate Accounts, as well as other contracts that Equitable may issue in the future through Future Accounts that are substantially similar in all material respects to the Contracts (the ''Future Contracts''). The Prior Order extends the relief to any other National Association of Securities Dealers, Inc. (''NASD'') member broker-dealer controlling or controlled by, or under common control with, Equitable, whether existing or created in the future, that serves as a distributor or principal underwriter for the Contracts or Future Contracts offered through the Separate Accounts or any Future Account (''Equitable Broker-Dealer(s)''). The application seeks to amend the Prior Order to permit the recapture of credits of up to 5% of contributions made under the Contracts or Future Contracts.

APPLICANTS: The Equitable Life Assurance Society of the United States (''Equitable Life''), The Equitable of Colorado, Inc. (''EOC,'' and together with Equitable Life, ''Equitable''), Separate Account No. 45 of Equitable Life (''SA 45''), Separate Account No. 49 of Equitable Life (''SA 49''), Separate Account VA of EOC (''SA VA,'' and together with SA 45 and SA 49, the ''Separate Accounts''), and other separate account established by Equitable in the future to support certain deferred variable annuity contracts and certificates issued by Equitable (''Future Account''), EQ Financial Consultants, Inc. (''EQFC''), and Equitable Distributors, Inc. (''EDI'') (collectively, ''Applicants'').

FILING DATE: The application was filed on June 15, 1999, and amended on July 2, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, in person or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 27, 1999, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request

notification by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW Washington, DC 20549–0609. Applicants, c/o The Equitable Life Assurance Society of the United States, 1290 Avenue of the Americas, New York, New York 10104, Attn: Mary Joan Hoene, Esq.

FOR FURTHER INFORMATION CONTACT: Kevin P. McEnery, Senior Counsel, or Susan M. Olson, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch, 450 Fifth St., N.W., Washington, D.C. 20549–0102 (tel. (202) 942–8090).

Applicants' Representations

1. Equitable Life is a stock life insurance company organized under the laws of the State of New York. SA 45 and SA 49 were established in August 1994 and June 1996. Equitable Life serves as depositor of SA 45 and SA 49. Equitable Life may in the future establish one or more Future Accounts for which it will serve as depositor.

2. EOC is a stock life insurance company organized under the laws of the State of Colorado. SA VA was established in December 1996, pursuant to authority granted under a resolution of EOC's Board of Directors. EOC serves as depositor of SA VA. EOC may in the future establish one or more Future Accounts for which it will serve as depositor.

3. SA 45 and SA 49 are each a segregated asset account of Equitable Life, and SA VA is a segregated asset account of EOC. Each of the Separate Accounts is registered with the Commission as a unit investment trust series investment company under the Act. SA 45 filed a Form N–8A Notification of Registration under the 1940 Act on September 6, 1994, and SA 49 filed a Form N–8A under the Act on June 7, 1996. SA VA filed a Form N–8A on February 16, 1999. Each of the Separate Accounts will fund the variable benefits available under the Contracts funded through it. Units of interest in the Separate Accounts under the Contracts they fund will be registered under the Securities Act of 1933 (the ''1933 Act''). In that regard, SA 45 and SA 49 filed Form N–4 Registration Statements on September 30, 1998, under the 1933 Act relating to the Contracts. SA VA filed a Form N–4 Registration Statement on February 16, 1999, under the 1933 Act relating to the Contracts. Equitable may in the future issue Future Contracts through the Separate Accounts or through Future Accounts. That portion of the respective assets of the Separate Accounts that is equal to the reserves and other Contract liabilities with respect to SA 45, SA 49 or SA VA is not chargeable with liabilities arising out of any other business of Equitable Life or EOC, as the case may be. Any income, gains or losses, realized or unrealized, from assets allocated to the Separate Accounts are, in accordance with the respective Separate Accounts' Contracts, credited to or charged against the Separate Accounts, without regard to other income, gains or losses of Equitable Life or EOC, as the case may be.

4. EQFC is an indirect, wholly-owned subsidiary of Equitable Life and will be the principle underwriter of SA 45 and SA VA and distributor of the Contracts funded through SA 45 (the ''SA 45 Contracts'') and through SA VA (the ''SA VA Contracts''). EQFC is registered with the Commission as a broker-dealer under the Securities Exchange Act of 1934 (the ''1934 Act'') and is a member of the NASD. The SA 45 Contracts and the SA VA Contracts will be offered through registered representatives of EQFC and its affiliates who are registered broker-dealers under the 1934 Act and NASD members. EQFC, or any successor entity, may act as principal underwriter for any Future Account and distributor for any Future Contracts issued by Equitable in the future. A successor entity also may act as principal underwriter for SA 45 and/or SA VA.

5. EDI is an indirect, wholly-owned subsidiary of Equitable Life and will be the principal underwriter of SA 49 and SA VA and distributor of the Contracts funded through SA 49 (the ''SA 49 Contracts'') and the SA VA Contracts. EDI is registered with the Commission as a broker-dealer under the 1934 Act and is a member of the NASD. The SA 49 and SA VA Contacts will be offered through registered representatives of EDI and its affiliates, as well as through unaffiliated broker-dealers who have entered into agreements with EDI. All of such affiliates and unaffiliated broker-dealers will be registered broker-dealers under the 1934 Act and NASD members. EDI, or any successor entity, may act as principal underwriter for any Future Account and distributor for any future Contracts issued by Equitable in the future. A successor entity also may act as principal underwriter for SA 49 or SA VA.

6. On May 3, 1999, the Commission issued the Prior Order exempting certain transaction of Applicants from the provisions of Section 2(a)(32), 22(c), and 27(i)(2)(A) of the 1940 Act, and Rule 22c–1 thereunder.[1] The Prior Order permits the recapture, under specified circumstances, of 3% credits applied to contributions made under the Contracts.

7. Equitable now desires the flexibility to increase the amount that it may subsequently recapture to up to 5% of contributions under the Contracts or Future Contracts.

Applicants' Legal Analysis

1. Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions from the provisions of the Act and the rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors of the purposes fairly intended by the policy and provisions of the Act. Applicants request that the Commission amend the Prior Order to permit Applicants to rely on the exemption provided thereby from the provisions of sections 2(a)(32), 22(c) and 27(i)(2)(A) of the Act, and Rule 22c–1 thereunder, to recapture, under the same circumstances described in the Prior Application, credits to contributions of up to 5% for all Contracts and Future Contracts.

2. Applicants submit that the relief requested hereby is identical to the relief granted in the Prior Order, except that it covers a higher credit.

3. Applicants incorporate by reference the legal analysis set out in the Prior Application.

4. Applicants assert that recapture of credits of up to 5% will not raise concerns under sections 2(a)(32), 22(c) and 27(i)(2)(A) of the Act, and Rule 22c–1 thereunder for the same reasons as those given in the Prior Application. Applicants submit that the credits of up to 5% will be recapturable under the same circumstances and on the same basis as the 3% credits described in the Prior Application, the only difference being the higher percentage amount. Accordingly, Applicants believe that the requested relief from the provisions of

[1] *The Equitable Life Assurance Society of the United States, et al.*, Investment Company Act Release No. 23822 (File No. 812–11388). Pursuant to Rule 0–4 under the 1940 Act, Applicants incorporated by reference in the application the statement of facts set out in the amended and restated application (''Prior Application'') for the Prior Order, to the extent necessary to support the application.

Sections 2(a)(32), 22(c) and 27(i)(2)(A) of the Act, and Rule 22c–1 thereunder, is consistent with the exemptive relief provided under the Prior Order.

5. In addition, Applicants state that the Commission has previously granted similar exemptive relief to permit the issuance of variable annuity contracts providing for recapturable bonus credits in amounts up to 5%.

Conclusion

Applicants submit, based on the grounds summarized above, that their exemptive request meets the standards set out in Section 6(c) of the Act, namely that the exemptions requested are necessary or appropriate in the public interest, and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act, and that, therefore, the Commission should grant the requested order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–17460 Filed 7–8–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27045]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

July 2, 1999.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the applications(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration (s) and any amendments is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by July 27, 1999, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarants(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be field with the request. Any request for hearing should identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After July 27, 1999, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

The Southern Company, et al. (70–8691)

The Southern Company (''Southern''), 270 Peachtree Street, N.W, Atlanta, Georgia 30303, a registered holding company, has filed an amendment to its declaration under sections 6(a), 7, and 12(b) of the Act and rules 45 and 54 under the Act.

On May 23, 1997 (HCAR No. 26720), the Commission issued a notice whereby Southern filed a declaration seeking authority for it to guarantee securities to be issued to third parties by Southern Company Services, Inc. (''Services''), a wholly owned service company subsidiary of Southern.

Southern now proposes, from time to time through June 30, 2004, to guarantee the debt or other obligations of Services up to an aggregate principal amount of $200 million.

Services intends, from time to time through June 30, 2004, to make borrowings from Southern or third parties under rule 52 up to an aggregate principal amount of $200 million. Services proposes to issues notes to Southern as evidence of any borrowings made from Southern. Terms and conditions of any borrowings from Southern to Services will mirror Southern's effective cost of capital.

Services proposes to issue and sell notes (''Notes'') to third party lenders with terms of up to 50 years, contain sinking funds and bear interest at a rate not to exceed 3½ percentage points per annum over the rate for U.S. Treasury securities with a corresponding maturity. Services may hire an agent to place the Notes for a commission based upon the principal amount borrowed.

Services may also make borrowings from certain banks under one or more revolving credit commitment agreements. Short-term borrowings would have a maximum maturity of one year, and term loans would have maturities up to ten years. Borrowings would be evidenced by a ''grid'' promissory note to be dated the date of the initial borrowing and the date of each subsequent borrowing when a ''grid'' short-term or term-loan note is not outstanding. These borrowings would bear interest at rates to be negotiated with the leader. Services expects to pay fees in connection with the credit arrangements. The interest rates and fees will be negotiated based upon prevailing market conditions.

Services also may make borrowings from other institutions. The institutional borrowings will be evidenced by notes to be dated as of the date of the borrowings and to mature in not more than ten years after the date of borrowing, or by ''grid'' notes evidencing all outstanding borrowings from each lender to be dated as of the date of the initial borrowing and to mature in not more than ten years after the date of borrowing. Generally, borrowings will be prepayable in whole, or in part, without penalty or premium, and will be at rates to be negotiated with the lending institutions based upon prevailing market conditions. Services also may negotiate separate rates for, or agree not to prepay, particular borrowings if it is considered more favorable.

In the event that Services makes borrowing from Southern, Services proposes to issue notes to Southern as evidence of the indebtedness. Terms and conditions of any borrowings from Southern to Services will mirror Southern's effective cost of capital.

The net proceeds from all borrowings will be used to fund the general requirements of Southern's Services' business, including the possible refunding of outstanding indebtedness. The proceeds will be used in the routine course of business for funding required capital expenditures, including computer equipment, software, office equipment and office facilities, other requirements as approved by the Commission and maintaining an adequate working capital level.

GPU, Inc. (70–7607)

GPU, Inc. (''GPU''), 300 Madison Avenue, Morristown, New Jersey 07962, a registered holding company, has filed a post-effective amendment under sections 6(a) and 7 of the Act and rule 54 under the Act to a declaration previously filed under the Act.

By order dated March 30, 1989 (HCAR No. 24851) (''Order''), the Commission authorized GPU to issue up to 20,000 shares of GPU common stock through December 31, 1998 (''Authorization Period'') under a restricted stock plan for outside directors (''Plan'').[1] GPU now requests that the Commission extend the Authorization Period through December 31, 2008. In all other respects, the terms and conditions of the Plan would remain unchanged.

[1] The number of shares authorized under the Plan later rose to 40,000 due to a two-for-one stock split.

Under the Plan, all members of GPU's board of directors (''Board'') who are outside directors (''Outside Directors'') are eligible to receive—in addition to their annual retainer, committee fees, and benefits under any other applicable benefits plan—shares of GPU common stock as compensation for their services as Board members. Until termination of service, an Outside Director generally may not dispose of any shares of GPU common stock awarded under the Plan, but has all other rights of a shareholder with respect to such shares, including voting rights and the right to receive all cash dividends paid with respect to awarded shares. A committee administers the Plan and determines any award under the plan.

The Plan states that its purpose is to enable GPU to attract and retain persons of outstanding competence to serve on its Board by paying them a portion of their compensation in GPU common stock.

Southern Ohio Coal Company, et al. (70–9515)

Southern Ohio Coal Company (''SOCCo''), a West Virginia corporation and a wholly owned nonutility subsidiary of Ohio Power Company (''Ohio Power''), and electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, each located at 1 Riverside Plaza, Columbus, Ohio 43215, have filed a declaration under section 12(c) of the Act and rules 46 and 54 under the Act.

By Commission order dated September 13, 1996 (HCAR No. 26573), SOCCo was authorized to pay up to $68 million out of capital surplus to Ohio Power through December 31, 1998, as one or more dividends on its common stock. Dividends in that amount have been paid to Ohio Power, according to SOCCo, and the authority under that order has expired. In June of 1997, SOCCo received approximately $50 million from an institutional investor from the sale-leaseback of its Meigs Division coal preparation plant, intermine coal conveyor and overland coal conveyor. The remaining sale-leaseback proceeds and the cash generated from SOCCo's Meigs Division are in excess of $15.8 million and exceed the amount of its working capital requirements, which are estimated by SOCCo to be $9,928,000.

SOCCo now requests authorization to pay Ohio Power one or more dividends on its common stock, out of capital surplus, totalling up to $15.807 million. SOCCo proposes that its Board of Directors declare dividends periodically when the cash is available, but in no event later than December 31, 2001.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–17461 Filed 7–8–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41593; File No. SR–AMEX–99–20]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Relating to the Listing and Trading of Trust Issued Receipts

July 1, 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 May 28, 1999, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II 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 proposes to adopt Rules 1200, 1201 and 1202 relating to the listing and trading of Trust Issued Receipts. The text of the proposed rule change follows. [Bracketing] indicates text to be deleted and *italics* indicate text to be added.

Rules of General Applicability

TRUST ISSUED RECEIPTS

Rule 1200

(a) Applicability. The Rules in this Chapter (Trading of Trust Issued Receipts) are applicable only to Trust Issued Receipts. Except to the extent that specific Rules in this Chapter govern, or unless the context otherwise requires, the provisions of the Constitution and all other rules and policies of the Board of Governors shall be applicable to the trading on the Exchange of such securities. Pursuant to the provisions of Article 1, Section 3(i) of the Constitution, Trust Issued Receipts are included within the definition of ''security'' or ''securities'' as such terms are used in the Constitution and Rules of the Exchange.

(b) Definitions. The following terms as used in the Rules shall, unless the context otherwise requires, have the meanings herein specified:

Trust Issued Receipts. The term ''Trust Issued Receipt'' means a security (a) that is issued by a trust (''Trust'') which holds specified securities deposited with the Trust; (b) that, when aggregated in some specified minimum number, may be canceled by the beneficial owner to receive the securities; and (c) that pays beneficial owners dividends and other distributions on the deposited securities, if any are declared and paid to the trustee by an issuer of the deposited securities.

Commentary

.01 The Exchange requires that members and member organizations provide to all purchasers of newly issued Trust Issued Receipts a prospectus for the series of Trust Issued Receipts

.02 Transactions in Trust Issued Receipts may be effected until 4:00 pm each business day.

Designation

Rule 1201

The Exchange may list and trade Trust Issued Receipts based on one or more securities. The Trust Issued Receipts based on particular securities shall be designated as a separate series and shall be identified by a unique symbol. The securities that are included in a series of Trust Issued Receipts shall be selected by the Exchange or its agent, a wholly-owned subsidiary of the Exchange, or by such other person as shall have a proprietary interest in such Trust Issued Receipts, and may be revised from time to time.

Initial and Continued Listing

Rule 1202

Trust Issued Receipts will be listed and traded on the Exchange subject to application of the following criteria .

(a) Initial Listing—For each Trust, the Exchange will establish a minimum number of Trust Issued Receipts required to be outstanding at the time of commencement of trading on the Exchange.

(b) Continued Listing—Following the initial twelve month period following formation of a Trust and commencement of trading on the Exchange, the Exchange will consider the suspension of trading in or removal from listing of a Trust upon which a series of Trust Issued Receipts is based

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

under any of the following circumstances:

(i) if the Trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Trust Issued Receipts for 30 or more consecutive trading days; or

(ii) if such other event shall occur or condition exists which in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

Upon termination of a Trust, the Exchange requires that Trust Issued Receipts issued in connection with such Trust be removed from Exchange listing. A Trust may terminate in accordance with the provisions of the Trust prospectus, which may provide for termination if the value of securities in the Trust falls below a specified amount.

(c) Term—The stated term of the Trust shall be as stated in the Trust prospectus. However, a Trust may be terminated under such earlier circumstances as may be specified in the Trust prospectus.

(d) Trustee—The requirements of paragraph (a) of Section #811 of the Exchange Company Guide apply.

(e) Voting—Voting rights shall be as set forth in the Trust prospectus.

* * * * *

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

The Amex proposes to add Rules 1200, 1201 and 1202 to accommodate the trading of trust issued receipts that are intended to provide investors with a flexible, cost-effective way of purchasing, holding and transferring the securities of one or more specified companies. Since trust issued receipts have many of the same features and characteristics of Portfolio Depositary Receipts (''PDRs'') that have been listed on the Exchange since 1993, the Exchange is proposing that trust issued receipts have similar listing standards and rules as are currently in place for PDRs. In addition, the Exchange proposes to trade standardized options on the trust receipts using the listing standards for exchange-traded fund shares.

Trust Issued Receipts

Trust issued receipts are negotiable receipts which are issued by a Trust representing securities of issuers that have been deposited and are held on behalf of the holders of the trust issued receipts. Trust issued receipts are designed to allow investors to hold certain securities investments in a single, exchange-listed and traded instrument representing their beneficial ownership in the deposited securities. Holders of trust issued receipts maintain beneficial ownership of each of the deposited securities evidenced by trust issued receipts. Holders may cancel their trust issued receipts at any time to receive the deposited securities.

The proposed initial trust issued receipts will be formed under a depositary trust agreement between a qualified trustee, as trustee, and Merrill Lynch, Pierce, Fenner & Smith Incorporated, as the initial depositor. A trust will issue trust issued receipts under a depositary agreement. After the initial offering, a trust may issue additional receipts on a continuous basis when an investor deposits the requisite securities with the trust.

A round-lot of 100 trust issued receipts represents a holder's individual and undivided ownership interest in a whole number of securities of one or more specified companies in a specified industry. Trust issued receipts may be acquired, held or transferred only in round-lot amounts (or round-lot multiples) of 100 receipts. Orders for less than a round-lot will be rejected, while orders for greater than a round-lot, but not a round-lot, but not a round-lot multiple will be executed to the extent of the largest round lot multiple, rejecting the remaining odd-lot (*e.g.,* orders for 50 trust issued receipts will be rejected, and for orders of 1050 trust issued receipts, 1000 will be executed and 50 will be rejected). The initial offering price for a trust issued receipt will be established on the data the receipts are priced for sale to the public.

Except when a reconstruction event occurs, as described below, the securities represented in a trust issued receipt will not change. Under no circumstances will a new security be added to the list of securities after a particular receipt program is established. An investor in trust issued receipts will be permitted to withdraw its deposited securities upon delivery to the trustee of one or more round-lots of 100 trust issued receipts and to deposit such securities to receive trust issued receipts.

The amounts of deposited securities for each round-lot of 100 trust issued receipts will be determined on the pricing date and will be disclosed in the prospectus to investors.

Maintenance of Trust Issued Receipts

The amounts of deposited securities specified in the prospectus will not change, except for changes due to certain corporate events such as stock splits or reverse stock splits on the deposited securities. The relative weighings among the deposited securities will change based on the current market price of the deposited securities. Once established, the component securities held by the trust and represented by trust issued receipts will not change unless an event described below occurs.

The trust agreement provides for the automatic distribution of specified deposited securities to the beneficial owner of such receipts in three circumstances referred to in the prospectus as ''reconstitution events.'' A reconstitution event occurs if:

(1) A company with deposited securities evidenced by a trust issued receipt no longer has a class of common stock registered under Section 12 of the Securities Exchange Act of 1934. In such instance, its securities will no longer be a deposited security and the trustee will distribute the securities of that company to the owners of the trust receipts;

(2) The Commission finds that a company with deposited securities evidenced by the trust issued receipts is a company that should be registered as an investment company under the Investment Company Act of 1940, and the trustee has actual knowledge of the Commission's finding. In this situation, the trustee will distribute the securities of that company to the owners of the trust issued receipts; and

(3) The deposited securities of a company evidenced by a trust issued receipt are no longer outstanding because the securities were acquired by another company. Under this scenario, the trustee will distribute the consideration paid by and received from the acquiring company to the beneficial owners of trust issued receipts, unless the consideration is additional deposited securities (*i.e.,* the acquiring company's securities are already included in the trust issued receipt as

deposited securities), in which case such additional securities will be deposited into the trust.

If the trustee removes a deposited security from the trust due to the occurrence of one of the reconstitution events described above, the trustee will deliver the deposited security to the investor within three calendar days from the occurrence of the reconstitution event. Investors in the trust issued receipts will receive dividends and other distributions paid in respect of the deposited securities.

The trust will issue and cancel, and an investor may obtain, hold, trade or surrender, receipts only in a round-lot of 100 trust issued receipts and round-lot multiples. While investors will only be able to acquire, hold, transfer and surrender the receipts in round-lots of 100 trust issued receipts, the bid and asked prices will be quoted on a per receipt basis.[3] The trust will issue additional receipts on a continuous basis when an investor deposits the required securities with the trust.

An investor may obtain trust issued receipts by delivering to the trust the requisite securities evidencing a trust issued receipt, the trustee will charge an issuance fee of up to $10.00 per 100 trust issued receipts. If an investor wants to cancel trust issued receipts and withdraw the deposited securities, the trustee will charge a cancellation fee of up to $10.00 per 100 trust issued receipts.

Criteria for Initial and Continued Listing

Because of the continuous issuance and cancellation of trust issued receipts, the Exchange believes it is necessary to maintain appropriate flexibility in connection with listing a specific trust. In connection with initial listing, the Exchange proposes that, for each trust, the Exchange will establish a minimum number of receipts required to be outstanding at the time of commencement of Exchange trading, and such minimum number will be filed with the Commission in connection with any required submission under Rule 19b–4 for each trust. It is anticipated that a minimum of 150,000 receipts will be required to be outstanding when trading begins.

Because of the continuous issuance and cancellation of trust issued receipts, and because the number of holders is subject to substantial fluctuations depending on market conditions, the Exchange believes it would be inappropriate and burdensome on trust issued receipt holders to consider suspending trading in or delisting a series of receipts with the consequent termination of the trust, unless the number of holders remains severely depressed over an extended time period. Therefore, after twelve months from the formation of a trust and commencement of Exchange trading, the Exchange will consider suspension of trading in, or removal from listing of a trust when, in its opinion, further dealing in such securities appears unwarranted under the following circumstances:

(a) if the trust has more than 60 days remaining until termination and there have been fewer than 50 record and/or beneficial holders of the trust issued receipts for 30 or more consecutive trading days; or

(b) if such other event shall occur or condition exists which in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

Exchange Rules Applicable to the Trading of Trust Issued Receipts

Trust issued receipts will be deemed equity securities subject to all Amex rules governing the trading of equity securities, including, among others, rules governing priority, parity and precedence of orders, market volatility related trading halt provisions pursuant to Amex Rule 117, and responsibilities of the specialist. Exchange equity margin rules and the regular equity trading hours of 9:30 a.m. to 4 p.m. will apply to transactions in trust issued receipts. However, trading rules pertaining to the availability of odd-lot trading in Amex equities will not apply to the trading of trust issued receipts, since they can only be traded in round-lots.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act[4] in general and furthers the objectives of Section 6(b)(5)[5] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

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

No written comments were solicited or received with respect to the proposed rule change.

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 the proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, 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 will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–AMEX–99–20 and should be submitted by July 30, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–17464 Filed 7–9–99; 8:45 am]

BILLING CODE 8010–01–M

[3] The per share amount will be disseminated by the Amex every 15 seconds over the Consolidated Tape Association's Network B.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41590; File No. SR–EMCC–99–6]

Self-Regulatory Organizations; The Emerging Markets Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Establishing a New Fee Related to Bond Trade Data Submitted to EMCC

July 1, 1999.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on May 28, 1999, Emerging Markets Clearing Corporation (''EMCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by EMCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change establishes a new fee related to bond trade data submitted directly to EMCC by a member.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, EMCC 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. EMCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Under the proposed rule change EMCC will charge a fee of $1.75 per side for bond trade data submitted directly to EMCC by members.[3] This fee will be used to meet the minimum monthly fee imposed by GE for the Match-EM service until the Emerging Markets Traders Association's contract with GE terminates on October 31, 1999. This new fee is effective on June 1, 1999, and will expire on October 31, 1999.

The proposed rule change is consistent with the requirements of Section 17A of the Act[4] and the rules and regulations thereunder applicable to EMCC, since it provides for the equitable allocation of dues, fees and other charges among EMCC's participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

EMCC does not believe that the proposed rule change will have an impact or impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments relating to the proposed rule change have been solicited or received. EMCC will notify the Commission of any written comments received by EMCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii)[5] of the Act and pursuant to Rule 19b–4(f)(2)[6] promulgated thereunder because the proposal establishes or changes a due, fee, or other charge imposed by EMCC. At any time within sixty days of the filing of such 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 in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of EMCC. All submissions should refer to File No. SR–EMCC–99–6 and should be submitted by July 30, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–17463 Filed 7–8–99; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by EMCC.

[3] The Commission recently approved an EMCC proposed rule whereby EMCC may accept trade data directly from either members or service bureaus. Securities Exchange Act Release No. 41247 (April 2, 1999) 64 FR 17705.

[4] 15 U.S.C. 78q–1.

[5] 15 U.S.C. 78s(b)(3)(A)(ii).

[6] 17 CFR 240.19b–4(f)(2).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41589; File No. SR–GSCC–98–05]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Expanding the Automated Customer Account Transfer Service To Include Government Securities

July 1, 1999.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on December 11, 1998, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') and on February 3, 1999, amended the proposed rule change as described in Items I and II below, which items have been prepared primarily by GSCC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Under the proposed rule change, GSCC will establish an interface with the National Securities Clearing

[1] 15 U.S.C. 78s(b)(1).

Corporation (''NSCC'') to make government securities eligible for fully automated processing through the Automated Customer Account Transfer Service (''ACATS'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC 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. GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statement.[2]

(A) Self-Regulatory Organization's Statement of the Purposed of, and Statutory Basis for, the Proposed Rule Change

On November 10, 1998, the Commission approved a proposed rule change by NSCC to expand the types of eligible ACATS participants and kinds of assets (*i.e.*, government and mortgage-backed securities) that can be transferred through ACATS.[3] However, the ACATS service does not currently provide operationally for the transfer of any government securities included in a customer's account.

In order to broaden the types of assets which can be transferred through ACATS, NSCC has requested that GSCC establish with it an interface that will enable account transfers involving netting-eligible government securities to be processed using GSCC's existing netting and settlement processes.

Key operational aspects of the proposed interface are:

(1) The ACATS participant that will be transferring the securities and the ACATS participant that will be receiving the securities each must either be a GSCC netting member or clear through a GSCC netting member.

(2) The instructions for the securities transfers will be provided by the ACATS participants to NSCC and then from NSCC to GSCC.[4] GSCC will receive these instructions after the close of business on the business day prior to the account transfer date on a locked-in basis from NSCC.[5]

(3) Two trades would be submitted for each account transfer in each eligible government security: a trade that moves securities from the GSCC member delivering the securities (''delivering member'') to an omnibus NSCC/ACATS account established on GSCC's system, and a trade that moves securities from the omnibus NSCC/ACATS account to the GSCC member receiving the securities (''receiving member''). These trades will be included in the net settlement position established by GSCC for each of the two members in the particular security.

(4) Account transfers essentially are free transactions; however, because GSCC's IONS[6] system was not designed to process free trades, all ACATS deliver and receive transactions will be processed at settlement at a nominal value of one penny.

(5) The delivering member will be debited in the form of a mark-to-market payment (''ACATS mark payment'') the full current market value of the securities being transferred separate from the account transfer. The receiving member will be credited that amount. The delivering member will effectively receive its money back once the securities are delivered to GSCC and GSCC pays for them through its normal settlement mechanism.

With regard to this last operational aspect, if GSCC pays a receiving member an ACATS credit mark payment before realizing that the delivering member is insolvent and will not pay the ACATS debit mark payment to GSCC, the receiving member would be obligated under GSCC's rules to return the ACATS credit mark payment to GSCC. In the alternative, GSCC would have the authority under its rules to recompense itself by retaining an equivalent amount of the receiving member's clearing fund margin. GSCC will not guarantee settlement of the ACATS transaction until the delivering member has satisfied its ACATS debit mark in connection with the transaction.

If the receiving member becomes insolvent after receiving an ACATS credit mark payment and before taking in the securities and paying for them in completion of the ACATS transfer, GSCC makes clear under its rules that it has no responsibility to return the ACATS mark payment to the delivering member. If the delivering member delivers the securities to GSCC, GSCC will pay the delivering member for them and then sell the securities in the secondary market to recoup its money. GSCC would not take a position as to whether there had been a bona fide movement of customer securities.

GSCC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to GSCC because the proposed rule change will increase efficiency in processing government securities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule change will have an impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. GSCC will notify the Commission of any written comments received by GSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of Section 17A(b)(3)(F).[7] Section 17A(b)(3)(A)(F) requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The Commission believes that the proposed rule change is consistent with GSCC's obligations under section 17A(b)(3)(F) of the Act. ACATS will provide a more efficient method for the transfer of government

[2] The Commission has modified the text of the summaries prepared by GSCC.

[3] Securities Exchange Act Release No. 40657 (November 10, 1998), 63 FR 63952 [File No. SR–NSCC–98–06]. ACATS complements New York Stock Exchange (''NYSE'') and National Association of Securities Dealers (''NASD'') rules which require NYSE and NASD members to use automated, clearing agency customer account transfer services and to effect customer account transfers within specified time frames.

[4] The receiving ACATS participant would submit a transfer request in automated fashion to NSCC for processing. NSCC would assign a control number and send ACATS control reports to both the delivering and receiving ACATS participants, as it does today. The delivering ACATS participant would submit customer account asset details to NSCC, and these would be reported to the receiving ACATS participant for validation. NSCC then would submit trade input to GSCC using GSCC's existing input format prior to its 10:00 p.m. submission deadline.

[5] ACATS transactions will be incorporated into all existing GSCC output, including print image reports and machine readable output. GSCC members will have the ability to monitor account transfer transaction details and net transfer positions moving through the NSCC/ACATS account.

[6] IONS refers to GSCC's Industry Owned Netting System.

[7] 15 U.S.C. 78q–1(b)(3)(F)(1988).

securities included in a customer's account.

GSCC has requested that the Commission approve the proposed rule change subsequent to the thirtieth day after publication of the notice of the filing because it is currently operational capable of taking trade information from NSCC. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice because such approval will allow GSCC's interface with ACATS to immediately become operative with NSCC's expanded ACATS system. The Commission points out that this proposed rule change was discussed in NSCC's rule filing regarding the new ACATS system to which no written comments were received.[8]

IV. Solicitation of Comments

Intersted persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of GSCC. All submissions should refer to File No. SR–GSCC–98–05 and should be submitted by July 30, 1999 in the **Federal Register.**

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–GSCC–98–05) be and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–17416 Filed 7–8–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41592; File No. SR–MBSCC–99–03]

Self-Regulatory Organizations; MBS Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Ellgibility of Applicants

July 1, 1999.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act''), notice is hereby given that on April 19, 1999, the MBS Clearing Corporation (''MBSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by MBSCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change adds Addendum B to MBSCC's rules regarding the eligibility of applicants.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, MBSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments is received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. MBSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Article III, Rule 1, Section 1 of MBSCC's rules sets forth the categories of applicants that are eligible to become participants of MBSCC. The specific categories of entities that may become participants include mortgage bankers, broker-dealers registered with the Commission, commercial banks, thrift institutions, insurance companies, clearing agencies registered with the Commission, and investment companies registered with the Commission. The rule also contains a provision for ''firms in such other categories as the [MBSCC] from time to time may determine.''

The addendum clarifies the provision of MBSCC's eligibility rule regarding ''firms in such other categories as the [MBSCC] from time to time may determine.'' The categories of firms that are participants pursuant to this provision currently include government sponsored enterprises, international organizations, and private investment companies. The addendum also states that pension funds have expressed an interest in becoming participants of MBSCC and in the future may constitute an additional category within this provision. The addendum specifically provides that these firms are subject to MBSCC's rules and procedures, including standards for qualifications to the same extent as other firms.

MBSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act[3] and the rules and regulations thereunder because it constitutes an interpretation of an existing rule regarding the admission of participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MBSCC does not believe that the proposed rule change will impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments relating to the proposed rule change have been solicited or received. MBSCC will notify the Commission of any written comments received by MBSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act[4] and pursuant to Rule 19b–4(e)(1)[5] promulgated thereunder because the proposal constitutes a stated policy, practice, or interpretation with respect to the

[8] Securities Exchange Act Release Nos. 40487 (September 28, 1998), 63 FR 53479 and 40657 (November 10, 1998), 63 FR 63952.

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by MBSCC.

[3] 15 U.S.C. 78q–1.

[4] 15 U.S.C. 78s(b)(3)(A)(i).

[5] 17 CFR 240.19b–4(e)(1).

meaning, administration, or enforcement of an existing MBSCC rule. At any time within sixty days of the filing of such 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 in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of MBSCC. All submissions should refer to File No. SR–MBSCC–99–03 and should be submitted by July 30, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–17417 Filed 7–8–99; 8:45 am]

BILLING CODE 8010–01–M

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41582; File No. SR–PCX–99–23]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to the Reorganization of PCX Rule 6.87

June 30, 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 June 15, 1999, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the PCX. On June 21, 1999, the PCX filed with the Commission Amendment No. 1 to the proposed rule change.[3] The Commission is publishing the 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 proposes to redesignate the subsections of PCX Rule 6.87 to conform to proposed changes to this rule previously approved by the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX 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 PCX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to redesignate and clarify the provisions of PCX Rule 6.87, relating to the Exchange's Automatic Execution System (''Auto-Ex'') for options, to reflect changes to the rule recently approved by the Commission.

First, the Exchange proposes to redesignate subsection (d) pertaining to ''Suspension of Auto-Ex,'' approved by the Commission in February, 1998, as subsection (h).[4] Second, the Exchange proposes to redesignate subsection (d) pertaining to ''Auto-Ex NBBO,'' approved by the Commission in September, 1998 and amended in a filing approved in January, 1999, as subsection (i).[5] Third, the Exchange proposes to redesignate subsection (e) pertaining to ''Crossed or Locked Markets,'' approved by the Commission in January, 1999, as subsection (j).[6] Fourth, the Exchange proposes to redesignate subsections (d) pertaining to ''Market Maker Requirements and Eligibility,'' (e), and (f) pertaining to ''Price Adjustments,'' approved by the Commission in October, 1998, as subsections (e), (f) and (g).[7] In addition, the Exchange proposes to redesignate Commentary .01 of the rule as subsection (c) and to change the reference to ''this commentary'' in proposed subsection (c) to ''this subsection.'' The Exchange also proposes to redesignate current subsection (c) as subsection (d). The Exchange proposes these changes to recognize recent revisions to PCX Rule 6.87.

2. Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)[8] of the Act, in general, and furthers the objectives of Section 6(b)(5)[9] in particular, because it is designed to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments and perfect the mechanisms of a free and open market and a national market system and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PCX 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

No written comments were solicited or received with respect to the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange made technical modifications to its filing and further clarified the proposal. *See* letter to Michael A. Walinskas, Associate Director, Division of Market Regulation, Commission, from Robert P. Pacileo, Staff Attorney, PCX, dated June 18, 1999.

[4] *See* Securities Exchange Act Release No. 39635 (February 10, 1998), 63 FR 8246 (February 18, 1998) (SR–PCX–97–21).

[5] *See* Securities Exchange Act Release No. 40980 (January 26,1999), 64 FR 5335 (February 3, 1999) (SR–PCX–98–55) and Securities Exchange Act Release No. 40412 (September 8, 1998), 63 FR 49626 (September 16, 1998) (SR–PCX–98–27).

[6] *See* Securities Exchange Act Release No. 40980 (January 26, 1999), 64 FR 5335 (February 3, 1999) (SR–PCX–98–55).

[7] *See* Securities Exchange Act Release No. 40598 (October 23, 1998), 63 FR 58439 (October 30, 1998) (SR–PCX–97–48).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective immediately pursuant to Section 19(b)(3(a)(iii) [10] of the Act and subparagraph (f) of Rule 19b–4 thereunder [11] because it is concerned solely with the administration of the Exchange.

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.[12]

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 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 PCX. All submissions should refer to File No. SR–PCX–99–23 and should be submitted by July 30, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–17466 Filed 7–8–99; 8:45 am]

BILLING CODE 8010–01–M

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f).

[11] In reviewing this proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41588; File No. SR–Phlx–98–56]

Self-Regulatory Organizations; Philadelphia Stock Exchange Inc.; Order Approving Proposed Rule Change Relating to the Enhanced Parity Split Pilot Program for Equity and Index Option Specialists, and the Adoption of an Enhanced Parity Split for Specialists That Develop and Trade New Products

July 1, 1999.

I. Introduction

On December 28, 1998, the Philadelphia Stock Exchange, Inc. (''Exchange'' or ''Phlx'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change seeking to extend and receive permanent approval of the Exchange's enhanced parity split pilot program for Exchange specialists in equity and index options (''Pilot Program'').[3] In addition, the Exchange proposed to amend Exchange Rule 1014(g), ''Equity Option and Index Option Priority and Parity,'' and its corollary Option Floor Procedure Advice B–6 to provide an enhanced parity split for Exchange specialists that develop and trade new products.

In the release published for comment in the **Federal Register** on January 12, 1999, the Commission gave accelerated approval to the Exchange's request that the Pilot Program be extended for a six-month period ending June 30, 1999, or until the Commission approves the Exchange's request for permanent approval of the Pilot Program, whichever occurred first.[4] The Commission did not receive any comment letters with respect to the proposal. This order permanently approves the Pilot Program and the Exchange's proposal to establish an enhanced parity split for Exchange specialists that develop and trade new products.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Rule 1014(g)(ii), ''Two for-one Enhanced Specialist Participation.''

[4] Securities Exchange Act Release No. 40876 (Dec. 31, 1998), 64 FR 1849 (Jan. 12, 1999).

II. Description of the Proposal

A. Permanent Approval of the Pilot Program

The Exchange seeks permanent approval of the Pilot Program for Exchange specialists in equity and index options. The Commission first approved the Pilot Program on August 26, 1994,[5] to provide Exchange specialists in equity options with an enhanced participation in ''parity trades,'' or trades where orders compete at the same price.[6] While a parity trade is generally divided evenly among the crowd participants on parity, the enhanced participation gives the specialist a greater share of the trade than he would normally receive.

On November 30, 1994, the Commission approved the Exchange's proposal to expand the Pilot Program to include index option specialists.[7] The Pilot Program was later revised on March 1, 1995, with respect to situations where less than three controlled accounts are on parity with the specialist.[8] The Pilot Program was subsequently renewed without change on three occasions [9] and later was extended and expanded so that the enhanced parity split applies to: (i) All index options; (ii) all new option classes allocated to a specialist during the year; and (iii) 50% of a specialist's equity option issues, which issues are designed by the specialist and approved by the Exchange's Allocation, Evaluation, and Securities Committee.[10] In addition, the Pilot Program was revised to permit specialists to revise the list of eligible

[5] *See* Securities Exchange Act Release No. 34606 (Aug. 26, 1994), 59 FR 45741 (Sep. 2, 1994). The Pilot Program was initially approved for a one year period ending August 26, 1995.

[6] According to Exchange Rules 119 and 120, when bids and offers are made simultaneously, or when it is impossible to determine clearly the order of time in which they were made, all such bids and offers shall be on parity. For example, suppose that a floor broker holding a sell order for 10 Jan XYZ call options announces his order to the crowd. In response, three crowd participants might simultaneously bid to buy the 10 Jan XYZ call options at the same price. Because these three simultaneous bids are competing at the same price, the bids are on parity.

[7] Securities Exchange Act Release No. 35028 (Nov. 30, 1994), 59 FR 63151 (Dec. 7, 1994).

[8] Securities Exchange Act Release No. 35429 (Mar. 1, 1995), 60 FR 12802 (Mar. 8, 1995).

[9] Securities Exchange Act Release Nos. 36122 (Aug. 18, 1995), 60 FR 44530 (Aug. 28, 1995); 37524 (Aug. 5, 1996), 61 FR 42080 (Aug. 13, 1996); and 38924 (Aug. 11, 1997), 62 FR 44160 (Aug. 19, 1997).

[10] Securities Exchange Act Release No. 39401 (Dec. 4, 1997), 62 FR 65300 (Dec. 11, 1997). The Exchange maintains a separate, permanent enhanced parity split program for new specialist units that trade newly listed options. *See* Exchange Rule 1014(g)(iii), ''New Unit/New Option Enhanced Specialist Participation,'' and Securities Exchange Act Release No. 34109 (May 25, 1994), 59 FR 28570 (June 2, 1994).

options (*i.e.*, the designated equity options for which the specialist is entitled to receive the enhanced parity split) on a quarterly basis, rather than annually.

The Exchange now seeks permanent approval of the Pilot Program. The Pilot Program works as follows: when an equity or index option specialist is on parity with one controlled account [11] and an order for more than five contracts comes into the crowd, the specialist will receive 60% of the contracts and the controlled account will receive 40%. When the specialist is on parity with two controlled accounts and the order is for more than five contracts, the specialist will receive 40% of the contracts and each controlled account will receive 30%. When the specialist is on parity with three or more controlled accounts and the order is for more than five contracts, the specialist will be counted as two crowd participants when allocating the contracts. In any of these situations, if a customer order is on parity, the customer will not be disadvantaged by receiving a lesser allotment than any other crowd participant, including the specialist. Thus, a customer on parity is assured a minimum participation that is equal to the participation of the specialist.[12]

The application of this enhanced parity split is mandatory. Therefore, with respect to any equity or index option transaction that implicates the enhanced parity split, the specialist is required to accept the preferential allocation and may not decline the enhancement. If an equity or index option trade is on parity, but not subject to the enhanced parity split (*i.e.*, the trade is for five or less contracts), the Exchange specialist is required to allocate the contracts according to the Exchange's priority and parity rules.[13]

At the request of the Commission, the Exchange prepared a report (''Report'') discussing whether the: (i) Pilot Program has generated any evidence of any adverse effect on competition or investors, in particular, or the market for equity or index options, in general; (ii) Exchange has received any complaints, either written or otherwise, concerning the operation of the Pilot Program; and (iii) Exchange has taken any disciplinary action against, or commenced any investigations, examinations, or inquires concerning the operation of the Pilot Program, as well as the outcome of any such matter.

The Exchange incorporated the findings of its Report into the proposed rule change filing. According to the Exchange, its regulatory personnel have not observed during the past year evidence of any adverse effects on competition, investors, or the market for equity or index options. As to the second issue, the Exchange has not received any complaints, either orally or in writing, from investors or Exchange members regarding the Pilot Program. Finally, regarding disciplinary actions, investigations, examinations or inquires, the Exchange reports that it did not commence any investigations relating to the Pilot Program this past year.

B. Adoption of Enhanced Parity Split for Specialists That Develop and Trade New Products

The Exchange separately proposes to adopt an enhanced parity split for Exchange specialists that develop and trade new products (''New Products Split''). The Exchange stated that the New Products Split is intended to encourage specialist units to develop and trade new products, and to provide liquidity in such products, thereby attracting order flow to the Exchange. The exchange believes that the proposal balances the competing interests of specialists and Registered Option Traders (''ROTs''), while encouraging specialists to take an active role in supporting and marketing a new product, both important activities in a competitive environment.

Under the proposed New Products Split, when the specialist is on parity with three or more controlled accounts in the crowd, the specialist will receive 40% of the contracts and the controlled accounts will receive the remaining 60%. When the specialist is on parity with less than three controlled accounts in the crowd, the specialist will receive 60% of the contracts and the controlled accounts will receive 40%. In either of these situations, if a customer order is on parity, the customer may not receive a lesser allotment than any other crowd participant, including the specialist.

The Exchange indicated that the New Products Split would be limited to new products developed *and* traded by the same specialist unit. Therefore, if one specialist unit develops a new product but another specialist unit is allocated specialist privileges in that same new product,[14] the specialist unit trading the new product would not be entitled to the New Products Split. The Exchange's Options Committee will be responsible for determining whether a specialist ''developed'' a new product.

III. Discussion

For the reasons discussed below, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange. In particular, the Commission believes the proposed rule change is consistent with the Section 6(b)(5)[15] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, and protect investors and the public interest.[16] The Commission also finds that the proposal may serve to remove impediments to and perfect the mechanism of a free and open market by helping the Exchange to attract and retain specialist units, and offer new products to the investing public.

Generally, a parity trade is divided evenly among the crowd participants on parity. However, the Pilot Program and the New Products Split would provide Exchange specialists with an enhanced participation in parity trades. The enhancement would give the specialist a greater share of the trade than he would normally receive.

The Pilot Program gives an equity or index option specialist 60% of the contracts when he is on parity with one controlled accounts and the order is for more than five contracts. When the specialist is on parity with two controlled accounts and the order is for more than five contracts, the specialist will receive 40% of the contracts. When the specialist is on parity with three or more controlled accounts and the order is for more than five contracts, the specialist will be counted as two crowd participants when allocating the contracts.

The New Products Split would give an eligible specialist (*i.e.*, a specialist who developed a new product and to whom the new product is allocated) 40% of the contracts in the new product when the specialist is on parity with three or more controlled accounts in the crowd. When the specialist is on parity with less than three controlled accounts

[11] A controlled account is defined as ''any account controlled by or under common control with a member broker-dealer.'' Customer accounts, which include discretionary accounts, as defined as all accounts other than controlled accounts. *See* Exchange Rule 1014(g)(i).

[12] For example, if a customer is on parity with a specialist and two controlled accounts for a 10 contract order, the specialist—and therefore the customer also—would be entitled to receive 4 contracts (40%).

[13] *See* Exchange Rule 119, ''Precedence of Highest Bid,'' and Exchange Rule 120, ''Precedence of Offers at Same Price.''

[14] Allocation determinations are governed by Exchange Rules 500–526.

[15] 15 U.S.C. 78f(b)(5).

[16] In approving this proposed rule change, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

in the crowed, the specialist will receive 60% of the contracts. Under the Pilot Program and the New Products Split, if a customer order also is on parity, the customer may not receive a lesser allotment than any other crowd participant, including the specialist.

The Commission recognizes that the purpose of the enhanced parity split is to encourage specialists to make deep and liquid markets in order to attract order flow to the Exchange. The Commission has previously noted that specialists have responsibilities that other crowd participants do not share, such as the staff costs associated with continually updating and disseminating quotes.[17] As a result, the Commission believes it is reasonable for the Exchange to grant certain advantages to specialists, such as the enhanced parity split, to attract and retain well capitalized specialists at the Exchange. As long as these advantages do not unreasonably restrain competition and do not harm investors, the Commission believes that the granting of such benefits to specialists, in general, is within the business judgment of the Exchange.

The Commission believes that the proposal will encourage specialists to make deep and liquid markets to attract order flow to the Exchange. The Commission also believes that the Pilot Program and New Products Split provide reasonable benefits to specialists, given the heightened responsibilities and costs of specialist. Because it appears that these that these benefits do not unreasonably restrain competition and do not harm investors, the Commission believes that the approval of the Pilot Program and New Products Split is consistent with the Act.

The Pilot Program and the New Products Split specify that the application of the enhanced parity split cannot cause a customer order on parity to received a smaller participation than any other crowd participant, including the specialist. The Commission believes this provision adequately protects customers orders from any negative impact that might flow from application of the enhanced parity split. As a result, customer orders on parity are ensured a participation that, at a minimum, is equal to that given any other crowd participant on parity.

The Commission notes that the Pilot Program has been operative, albeit in differing forms, since 1994. During that period, the Commission has required the Exchange to submit Reports discussing: (i) The Pilot Program's impact on competition and investors; (ii) complaints regarding the Pilot Program; and (iii) inquiries, investigations, or disciplinary actions taken regarding the Pilot Program. The Reports have indicated that the Pilot Program operates well and does not adversely impact competition or investors.[18] Furthermore, the Exchange has not received complaints regarding the Pilot Program and has brought only one disciplinary action concerning the Pilot Program.[19] The Commission believes that the absence of significant problems over the past five years demonstrates that the Pilot Program is a reasonable benefit for the Exchange to offer to its equity and index option specialists.

Based on the Exchange's five year experience with the Pilot Program, and the similarity between the Pilot Program and the New Products Split, the Commission believes that the New Products Split is a reasonable measure to attract new products to the Exchange. Like the Pilot Program, the New Products Split should be an incentive for Exchange specialists to generate more business by developing and training new products. The Commission supports the Exchange's attempts to attract new business. The Commission also believes that because the enhanced parity split will be available only to a specialist unit that develops and trades a new product, the benefit is reasonably limited in scope to those specialist units that put forth significant effort. Therefore, the Commission believes it is appropriate to approve the New Products Split.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[20] that the proposed rule change (SR–Phlx–98–56) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–17418 Filed 7–8–99; 8:45 am]

BILLING CODE 8010–01–M

[17] *See, e.g.* Securities Exchange Act Release No. 35177 (Dec. 29, 1994), 60 FR 2419 (Jan. 9, 1995).

[18] The Exchange found that the enhanced parity split, as first proposed in 1994, was overly burdensome when only one or two controlled accounts were on parity with the specialist. Therefore, the Exchange amended the Pilot Program in 1995 to make the enhanced parity split more equitable in those situations. *See* Securities Exchange Act Release No. 35429 (Mar. 1, 1995), 60 FR 12802 (Mar. 8, 1995). The Exchange also formed a subcommittee to analyze the Pilot Program and its effect on competition, investors, and the market in general. The subcommittee members concluded that there is no evidence of any adverse effects on competition, investors, or the market for equity or index options.

[19] In 1995, the Exchange brought one disciplinary case against an equity option specialist for making an inequitable split among himself and the ROTs in the crowd. The specialist was censured and suspended for one week as part of a settlement. *See* Exchange Enforcement Matter No. 95–12.

[20] U.S.C. 78s(b)(2).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41591; File No. SR–Phlx–99–17]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. to Amend By-Law Article IX—Trustees of Stock Exchange Fund, at Section 9–5—Agent of Trustees, and Section 9–6—Reports

July 1, 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 June 9, 1999, the Philadelphia Stock Exchange, Inc. (''PHLX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared 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 seeks to amend By-Law Article IX-Trustees of Stock Exchange Fund, at Section 9–5—Agent of Trustees, and Section 9–6—Reports. The text of the proposed rule change is set forth below. Additions are italicized, and deletions are bracketed.

* * *

By-Law Article IX

Trustees of Stock Exchange Fund

* * *

Agent of Trustees

Section 9–5. The Trustees shall, with approval of the Board of Governors, appoint a*n* [Trust Company to act as their] Agent, to hold the securities of the Exchange for safekeeping, to collect the interest, dividends and income therefrom for the Treasurer of the Exchange. Said Agent shall also, from time to time, make deliveries of securities held for the Trustees of the Stock Exchange Fund as the Trustees of the Stock Exchange Fund shall direct.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Reports

Section 9–6. The Trustees of the Stock Exchange Fund shall submit to the [Board of Governors] *Finance Committee* at least quarterly a statement of the investments of the Exchange held by them in their capacity of Trustees of the Stock Exchange Fund. *The Finance Committee shall forward that report to the Board with its recommendation.*

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 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. 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

PHLX has proposed an amendment to By-Law Article IX, Sections 9–5 and 9–6, to permit the Board of Governors to appoint an Agent to hold the securities of the Exchange for safekeeping, and to collect the interest, dividends, and income therefrom for the Treasurer of the Exchange, as the Exchange no longer utilizes its subsidiary the Philadelphia Depository Trust Co. for such services. Additionally, the Board proposes to have the Finance Committee receive and review the quarterly report of investments of the Exchange and forward that report to the Board of Governors with its recommendation. The Board believes that oversight by the Finance Committee of the Trustees of the Stock Exchange Fund is appropriate as the Finance Committee, pursuant to By-Law Article X, Section 10–15, has charge of the funds of the Exchange and serves in an advisory capacity to the Board in the investment and sale of securities held by the Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6[3] of the Act in general, and with Section 6(b)(5)[4] in particular, in that it is designed to promote just and equitable principles of trade and protect investors and the public interest by providing further oversight of the financial arrangements of the Stock Exchange Fund.

B. Self-Regulatory Organization's Statement on Burden Competition

The PHLX 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

No written comments were received in response to Circular 98–17.

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 PHLX 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, 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 in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal offices of the PHLX. All submissions should refer to File No. SR–Phlx–99–17 and should be submitted by July 30, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–17465 Filed 7–8–99; 8:45 am]

BILLING CODE 8010–01–M

[3] 15 U.S.C. 78f.

[4] 15 U.S.C. 78f(b)(5).

[5] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[License No. 04/04–0277]

BOCF, L.L.C.; Notice of Issuance of a Small Business Investment Company License

On March 8, 1999, an application was filed by BOCF, L.L.C. at 501 Knights Run Avenue, #4104, Tampa, Florida 33602 with the Small Business Administration (SBA) pursuant to § 107.300 of the regulations governing small business investment companies (13 CFR 107.300 (1997)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA isssued License No. 04/04–0277 on May 28, 1999, to BOCF, L.L.C. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No.59.11, Small Business Investment Companies)

Dated: July 1, 1999.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 99–17455 Filed 7–8–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 05/75–0240]

Chicago Venture Partners, L.P.; Notice of Issuance of a Small Business Investment Company License

On July 6, 1998, an application was filed by Chicago Venture Partners, L.P. at 360 East Randolph Street, Suite 2402, Chicago, Illinois 60601 with the Small Business Administration (SBA) pursuant to § 107.300 of the regulations governing small business investment companies (13 CFR 107.300 (1997)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA

isssued License No. 05/75–0240 on May 24, 1999, to Chicago Venture Partners, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.11, Small Business Investment Companies)

Dated: July 1, 1999.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 99–17452 Filed 7–8–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 02/02–0589]

Emigrant Capital Corp.; Notice of Issuance of a Small Business Investment Company License

On March 11, 1999, an application was filed by Emigrant Capital Corporation at 6 East 43rd Street, 8th Floor, New York, New York 10017 with the Small Business Administration (SBA) pursuant to § 107.300 of the regulations governing small business investment companies (13 CFR 107.300 (1997)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA isssued License No. 02/02–0589 on May 28, 1999, to Emigrant Capital Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.11, Small Business Investment Companies)

Dated: July 1, 1999.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 99–17450 Filed 7–8–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 07/77–0103]

KCEP Ventures II, L.P.; Notice of Issuance of a Small Business Investment Company License

On October 16, 1998, an application was filed by KCEP Ventures II, L.P. at 233 West 47th Street, Kansas City, MO 64112 with the Small Business Administration (SBA) pursuant to § 107.300 of the regulations governing small business investment companies (13 CFR 107.300 (1997)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA isssued License No. 07/77–0103 on May 28, 1999, to KCEP Ventures II, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.11, Small Business Investment Companies)

Dated: July 1, 1999.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 99–17458 Filed 7–8–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 05/75–0239]

River Cities Capital Fund II, L.P.; Notice of Issuance of a Small Business Investment Company License

On June 26, 1998, an application was filed by River Cities Capital Fund II, L.P. at 221 East Fourth Street, Suite 2250, Cincinnati, Ohio 45202 with the Small Business Administration (SBA) pursuant to § 107.300 of the regulations governing small business investment companies (13 CFR 107.300 (1997)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA isssued License No. 05/75–0239 on April 15, 1999, to River Cities Capital Fund, II, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.11, Small Business Investment Companies)

Dated: July 1, 1999.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 99–17456 Filed 7–8–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 08/78–0156]

Roser Partnership III, SBIC, L.P.; Notice of Issuance of a Small Business Investment Company License

On September 30, 1998, an application was filed by The Roser Partnership III, SBIC, L.P. at 1105 Spruce Street, Boulder, Colorado 80302 with the Small Business Administration (SBA) pursuant to § 107.300 of the regulations governing small business investment companies (13 CFR 107.300 (1997)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA isssued License No. 08/78–0156 on May 24, 1999, to The Roser Partnership III, SBIC, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.11, Small Business Investment Companies)

Dated: July 1, 1999.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 99–17451 Filed 7–8–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 09/79–0418]

Selby Venture Partners, L.P.; Notice of Issuance of a Small Business Investment Company License

On May 5, 1998, an application was filed by Selby Venture Partners, L.P. at 2460 Sand Hill Road, Suite 200, Menlo Park, California 94025 with the Small Business Administration (SBA) pursuant to § 107.300 of the regulations governing small business investment companies (13 CFR 107.300 (1997)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA isssued License No. 09/79–0418 on May 24, 1999, to Selby Venture Partners, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.11, Small Business Investment Companies)

Dated: July 1, 1999.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 99–17454 Filed 7–8–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 02/72–0587]

Signal Capital Partners, L.P.; Notice of Issuance of a Small Business Investment Company License

On December 8, 1998, an application was filed by Signal Capital Partners, L.P.

at 10 East 53rd St, 32nd Floor, New York, New York 10022, with the Small Business Administration (SBA) pursuant to § 107.300 of the regulations governing small business investment companies (13 CFR 107.300 (1997)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA isssued License No. 02/72–0587 on April 22, 1999, to Signal Capital Partners, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.11, Small Business Investment Companies)

Dated: July 1, 1999.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 99–17449 Filed 7–8–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 03/03–0215]

Spring Capital Partners, L.P.; Notice of Issuance of a Small Business Investment Company License

On October 22, 1998, an application was filed by Spring Capital Partners, L.P. at Two Hopkins Plaza, Baltimore, Maryland 21201, with the Small Business Administration (SBA) pursuant to § 107.300 of the regulations governing small business investment companies (13 CFR 107.300 (1997)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA isssued License No. 03/03–0215 on April 22, 1999, to Spring Capital Partners, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.11, Small Business Investment Companies)

Dated: July 1, 1999.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 99–17453 Filed 7–8–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 02/02–0588]

T.S. Capital Corp.; Notice of Issuance of a Small Business Investment Company License

On June 18, 1998, an application was filed by T.S. Capital Corporation at 32 Second Street, Troy, New York 12180 with the Small Business Administration (SBA) pursuant to § 107.300 of the regulations governing small business investment companies (13 CFR, 107.300 (1997)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA isssued License No. 02/02–0588 on May 24, 1999, to T.S. Capital Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.11, Small Business Investment Companies)

Dated: July 1, 1999.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 99–17448 Filed 7–8–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 04/74–0276]

TD Javelin Capital Fund, II, L.P.; Notice of Issuance of a Small Business Investment Company License

On September 14, 1998, an application was filed by TD Javelin Capital Fund, II, L.P. at 2850 Cahaba Road, Suite 240, Birmingham, Alabama 35233, with the Small Business Administration (SBA) pursuant to § 107.300 of the regulations governing small business investment companies (13 CFR 107.300 (1997)) for a license to operate as a small business investment company.

Notice is hereby given that pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 04/74–0276 on March 1, 1999, to TD Javelin Capital Fund, II, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.11, Small Business Investment Companies)

Dated: July 1, 1999.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 99–17457 Filed 7–8–99; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 3058]

Information Collection

AGENCY: Department of State.

ACTION: 30-Day Notice of Information Collection: Notifications of Appointment, Change or Termination of Diplomatic, Consular or Foreign Government Employees, Currently Forms DSP–110, DSP–111, DSP–112, DSP–113, DSP–114, DSP–115.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Continuation of Existing Collection.

Originating Office: S/CPR.

Title of Information Collection: Notification of Appointment of Foreign Diplomatic and Career Consular Officer.

Frequency: On occasion.

Form Number: DSP–110.

Respondents: Foreign government representatives.

Estimated Number of Respondents: 2,000.

Average Hours Per Response: 25 minutes.

Total Estimated Burden: 850.

Title of Information Collection: Notification of Appointment of Foreign Government Employee.

Frequency: On occasion.

Form Number: DSP–111.

Respondents: Foreign government representatives.

Estimated Number of Respondents: 5,000.

Average Hours Per Response: 25 minutes.

Total Estimated Burden: 2,125.

Title of Information Collection: Notification of Appointment of Honorary Consular Officer.

Frequency: On occasion.

Form Number: DSP–112.

Respondents: Foreign government representatives.

Estimated Number of Respondents: 200.

Average Hours Per Response: 20 minutes.

Total Estimated Burden: 80.

Title of Information Collection: Notification of Change, Identification Card Request.

Frequency: On occasion.

Form Number: DSP–113.

Respondents: Foreign government representatives.

Estimated Number of Respondents: 5,000.

Average Hours Per Response: 9 minutes.

Total Estimated Burden: 600.

Title of Information Collection: Notification of Dependents of Diplomatic, Consular and Foreign Government Employees.

Frequency: On occasion.

Form Number: DSP–114.

Respondents: Foreign government representatives.

Estimated Number of Respondents: 7,000.

Average Hours Per Response: 10 minutes.

Total Estimated Burden: 840.

Title of Information Collection: Notification of Termination of Diplomatic, Consular or Foreign Government Employment.

Frequency: On occasion.

Form Number: DSP–115.

Respondents: Foreign government representatives.

Estimated Number of Respondents: 6,000.

Average Hours Per Response: 10 minutes.

Total Estimated Burden: 720.

Public comments are being solicited to permit the agency to:

- 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 collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER ADDITIONAL INFORMATION: Copies of the proposed information collection and supporting documents may be obtained from Lawrence Dunham, Assistant Chief of Protocol, U.S. Department of State, Washington, DC 20520. Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, (202) 395–5871.

Dated: June 29, 1999.

Patrick F. Kennedy,

Assistant Secretary for Administration.

[FR Doc. 99–17329 Filed 7–8–99; 8:45 am]

BILLING CODE 4710–20–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Commercial Routes for the Grand Canyon National Park

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability on routes in Grand Canyon National Park; comment request.

SUMMARY: This notice announces the availability of and requests comments on proposed commercial routes for the Grand Canyon National Park (GCNP) Special Flight Rules Area (SFRA). The proposed commercial routes are not being published in the **Federal Register** because they are depicted on large and very detailed charts that would be difficult to read if published in the **Federal Register**. The proposed modifications of certain commercial routes may require airspace changes in the GNCP SFRA that are contained in a notice of proposed rulemaking being published concurrently in this **Federal Register**. The proposed airspace modification and the planned modification to the route structure support the National Park Service mandate to provide for the substantial restoration of the natural quiet and experience of the park.

DATES: Comments on the routes must be received on or before September 7,1999.

ADDRESSES: Comments on the proposed routes, in triplicate, may be delivered or mailed to: Federal Aviation Administration, ATTN: Alberta Brown, Air Transportation Division, AFS–200, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–8321. Comments may be examined at the above address between 9 a.m. and 4 p.m. weekdays, except for Federal holidays.

FOR FURTHER INFORMATION CONTACT: Gary Davis, Air Transportation Division, AFS–200, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–8166.

SUPPLEMENTARY INFORMATION: The proposed commercial routes are not being published in the **Federal Register** because they are on very large and detailed charts that would not publish well in the **Federal Register**. A copy of the charts depicting the routes may be obtained by contacting Denise Cashmere at (202) 267–3717, by faxing a request to (202) 267–5229, or by sending a request in writing to the Federal Aviation Administration, Air Transportation Division, AFS–200, 800 Independence Avenue, SW., Washington, DC 20591.

Comments Invited

Interested persons are invited to comment on the proposed routes by submitting such written data, views, or arguments as they may desire. Commenters must identify that they are commenting on the proposed commercial routes for the GCNP SFRA. All comments received on or before the end of the comment period will be considered by the FAA before finalizing the commercial routes. Late filed comments will be considered to the extent practicable.

Discussion

The FAA, in consultation with the National Park Service (NPS), proposes to restore and modify certain commercial routes in the GCNP SFRA. The proposed modified routes were developed based on airspace configurations, safety considerations, the goal of substantial restoration of natural quiet in the GCNP, economic considerations, consultation with Native American tribes, and comments received in response to previous route proposals. The FAA, in consultation with the NPS, also proposes to modify the existing airspace in the SFRA to accommodate these proposed route changes in a companion notice of proposed rulemaking published elsewhere in this **Federal Register**.

In developing the proposed modified routes for GCNP, the FAA has been consulting with Native American tribes, on a government-to-government basis, as required by the Presidential Memorandum on Government-to-Government Consultation with Native American Tribal Governments to assess potential effects on tribal trust resources and to assure that tribal government rights and concerns are considered in the decisionmaking process. The FAA has also been consulting with these tribes pursuant to the American Indian Religious Freedom Act and the Religious Freedom Restoration Act concerning potential effects of the proposed routes on sacred sites. In addition, under Section 106 of the National Historic Preservation Act the FAA, has been consulting with these

tribes, the Arizona State Historic Preservation Office, the Advisory Council on Historic Preservation, and other interested parties concerning potential effects on historic sites, including traditional cultural properties and Native American sacred sites.

This action provides interested persons an opportunity to comment on the proposed commercial routes. Before the commercial routes for GCNP are finalized, FAA and NPS will fulfill their consultation responsibilities. In this consultation process, the FAA in coordination with NPS, will continue to consider feasible actions to mitigate any identified significant impacts to Native American cultural, religious, or historic sites.

General Description of the Modified Routes

The FAA proposes to rename the Blue Direct route as Blue Direct North and restore and modify the Blue Direct South, the Blue 2, and the Green 4 routes, as appropriate. Commenters should also note that the chart depicts proposed modifications to the Desert View, Bright Angel, and Sanup Flight-free Zones and the Zuni Point corridor.

These proposed routes have been developed after consideration of various alternative routes by the FAA and NPS. The FAA and NPS believes that the proposed routes best address preservation issues and Native American concerns. The proposal also continues to provide routes for commercial tour operators that mitigate noise impacts and provide the public with the requisite level of safety. The FAA believes that the routes depicted on the chart made available by this notice, would provide an opportunity for commercial air tours as well as assist the NPS in achieving its statutory mandate to provide for the substantial restoration of natural quiet in GCNP.

Environmental Review

The FAA is preparing a draft environmental assessment (EA) for this proposed action to ensure conformance with the National Environmental Policy Act of 1969. Copies of the draft EA will be circulated to interested parties and placed in the docket, where it will be available for review.

Issued in Washington, DC on July 1, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

[FR Doc. 99–17321 Filed 7–6–99; 12:06 pm]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability of the Draft Supplemental Environmental Assessment for the Proposed Actions Relating to the Grand Canyon National Park and Public Comment

AGENCY: Federal Aviation Administration (FAA).

ACTION: Notice of availability and request for comments.

SUMMARY: The Federal Aviation Administration (FAA), in cooperation with the National Park Service (NPS) and the Hualapai Indian Tribe (the Tribe), announces the availability of the Draft Supplemental Environmental Assessment (DSEA) for proposed Special Flight Rules vicinity of Grand Canyon National Park (GCNP) and request for comments.

The DSEA was prepared pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended, FAA Order 1050.1D, ''Policies and Procedures for Considering Environmental Impacts'', and other applicable environmental laws, and regulations. The DSEA assesses the effects of proposed Federal actions under consideration by the FAA and the Department of the Interior (DOI). These actions are to assist the National Park Service (NPS) in achieving its statutory mandate imposed by Public Law 100–91 to provide for the substantial restoration of natural quiet in the GCNP. The proposed actions include the following: (1) New air tour routes, and modifications to existing air tour routes for commercial aircraft operating in the Special Flight Rules Area (SFRA) in the vicinity of GCNP, identified as Special Federal Aviation Regulation Number 50–2 (SFAR 50–2); (2) new air space, and modifications to existing airspace in the SFRA; and (3) a limitation on the number of commercial air tours in the SFRA.

DATES: The opportunity to provide written comments on the DSEA will extend from July 7, through September 7, 1999. Late filed comments will be considered to the extent practicable.

ADDRESSES: Written comments on the Draft Supplemental EA may be delivered or mailed, in triplicate, to: Federal Aviation Administration, Attention: William J. Marx, Air Traffic Airspace Management, Environmental Programs Division, ATA–300, 800 Independence Avenue, SW., Washington, DC 20591. Comments may also be submitted via the internet. The internet address for written comments is *Bill.Marx@FAA.GOV*. Comments may be examined at the above address between 9 a.m. and 4 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Questions concerning this Draft Supplemental EA or the process being applied by the FAA should be directed to William J. Marx, via telephone at (202) 267–3075, or in writing to the address above.

SUPPLEMENTARY INFORMATION: The FAA and DOI are considering the proposed actions to assist the NPS in achieving its congressional mandate to provide for the substantial restoration of natural quiet at GCNP. Based upon further discussions with interested parties and consultation with Native American tribal representatives pursuant to Section 106 of the National Historic Preservation Act, the FAA is proposing additional revisions to the route structure in the SFRA. These proposed revisions will minimize impact on traditional cultural properties that we identified during consultation with Native American tribal representatives. The Notice of Route Availability (and accompanying chart), that details the proposed changes to the routes in the SFRA is being released concurrently with this DSEA, and contains a summary of the background information.

Other Federal actions considered in the DSEA include:

(1) Expansion of the Desert View Flight Free Zone (FFZ); (2) expansion of the boundary of the SFRA to contain the expansion of the Desert View FFZ; (3) reduction of the Sanup FFZ; and (4) a limitation on the number of commercial air tours in the SFRA. These proposals are contained in the Notice of Proposed Rulemaking (NPRM) for the Modification to the Airspace in the SFRA, and the NPRM for the Proposed Limitations to Commercial Air Tours in the GCNP. These documents are also being released concurrently with this DSEA and contain a summary of the background information.

The Supplemental EA

The scoping process for this Supplemental EA consisted of a public comment period for those interested agencies and parties to submit written comments representing the concerns and issues they believed should be addressed. The FAA received a total of 20 written comments. The Draft Supplemental EA contains a summary of those comments in Appendix G.

Information, data, opinions, and comments obtained throughout the course of the scoping process were used

in preparing the draft supplemental EA. The purpose of this Notice is to inform the public and local, State, and Federal government agencies of the availability of the draft supplemental EA. It also provides interested parties with an opportunity to present to the FAA their opinions, comments, information, or other relevant observations relating to the alternatives and potential environmental impacts of these proposals.

To maximize the opportunities for public participation in this environmental process, the FAA has mailed copies of the draft supplemental EA (DSEA), the two NPRMs, and the Notice of Route Availability and graphic to those individuals and agencies listed in Appendix I of the DSEA. The graphic containing the proposed route changes and airspace modifications is not being published in today's **Federal Register** due to the detail on the charts. Again these proposed actions represent concepts presently under consideration by the FAA and DOI.

Issued in Washington, DC on July 2, 1999.

William J. Marx,

Manager, Environmental Programs Division, Office of Air Traffic Airspace Management.

[FR Doc. 99–17342 Filed 7–6–99; 12:06 pm]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA–99–5929]

A Study of the Section 5307 Urbanized Area Formula Program and the Transit Needs of Small Urbanized Areas

AGENCY: Federal Transit Administration, DOT.

ACTION: Request for comments; notice of meeting.

SUMMARY: Section 3033 of the Transportation Equity Act for the 21st Century requires the Federal Transit Administration to study whether the formula 49 U.S.C. 5336 for apportioning funds to urbanized areas accurately reflects the transit needs of certain small urbanized areas that have unusually intensive transit service for their size. This document announces the commencement of this study, and solicits comments and suggestions on its design and aims. The results of this study will be sent to Congress along with FTA's suggestions on whether the formula should be changed to reflect the transit need of small urbanized areas.

DATES: Written comments on this notice should be submitted by September 7, 1999. Two outreach sessions to discuss the study design will also be held on July 7, 1999, and July 14, 1999. See addresses for meeting locations.

ADDRESSES:

(1) July 7, 1999, 10:00 AM to 12:00 noon (local time), at the Radisson Hotel, 500 Leisure Lane, Sacramento, CA. This meeting will be held in conjunction with the APTA/AASHTO/CTAA State Affairs Conference.

(2) July 14, 1999, 10:00 AM to 12:00 noon (local time), at the U.S. Department of Transportation, 400 7th Street SW, Washington, DC, in Room 6332–36.

Written comments and suggestions regarding the proposed study must refer to the docket number appearing above and must be submitted to the United States Department of Transportation, Central Dockets Office, PL–401, 400 Seventh Street SW, Washington, DC 20590. All comments received will be available for inspection at the above address from 10 a.m. to 5 p.m., Monday through Friday, except Federal holidays. Those desiring the agency to acknowledge receipt of their comments should include a stamped, self-addressed postcard. Written material submitted at the workshops will also be placed in the docket.

FOR FURTHER INFORMATION CONTACT: Darren Timothy, Office of Policy Development, FTA, (202) 366–0177. Email: darren.timothy@fta.dot.gov.

SUPPLEMENTARY INFORMATION:

I. Electronic Access
II. Background
III. Research Questions

I. Electronic Access

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the **Federal Register**'s home page at http://www.nara.gov/fedreg or the Government Printing Office's database at http://www.access.gpo.gov/nara.

II. Background

The Urbanized Area Formula Grants Program, section 5307 of Title 49 of the United States Code allocates funds to urbanized areas for capital, operating, and planning costs associated with mass transit; however, the actual apportionment formula is found in 49 U.S.C. 5336. The formula allocates section 5307 funds through a series of hierarchical tiers. The first division establishes two separate tiers of urbanized areas: (1) 9.32% is allocated to small urbanized areas (population 50,000 to 199,999); (2) 90.68% is allocated to large urbanized areas (population 200,000 and above).

For small urbanized areas, the formula apportionments are based solely on two factors: (1) Population; and (2) Population times population density.

For larger urbanized areas, however, the formula again breaks down into two tiers:

(1) The Fixed Guideway Tier (33.29%). The formula for this tier includes three factors: (A) Fixed guideway route miles; (B) Fixed guideway revenue-vehicle; and (C) Fixed guideway passenger-miles weighted by passenger-miles per dollar of operating cost (the fixed guideway incentive tier)

(2) The Bus Tier (66.71%). 90.8% of this tier is allocated based on three factors: (A) Population; (B) Population times population density: and (C) Bus revenue-vehicle miles.

This portion of the bus tier is further divided between urbanized areas with more than and less than 1 million in population. The remaining 9.2% of the bus tier is allocated based on bus passenger-miles weighted by bus passenger-miles per dollar of operating cost (the bus incentive tier).

There are two other important distinctions between small and large cities in the formula program. The first lies in the method of funds allocation to the urbanized areas. Large urbanized areas receive their formula apportionments directly from the federal government, through a designated recipient agency within the urbanized area. Small urbanized areas that are not in a transportation management area do not receive federal formula funds directly, however. Instead, the governor of their respective state acts as the designated recipient, and receives an apportionment based on formula allocations for all the small urbanized areas within the state. The second distinction between large and small urbanized areas is that formula funds for small urbanized areas may be used for operating costs, while this option is no longer available to larger urbanized areas.

While most small urbanized areas have transit system characteristics which are substantially different from those of large urbanized areas, this does not hold universally. Certain small, transit-intensive cities provide a level of service that is substantially greater than their size and density characteristics might indicate. Given the tier structure of the section 5307 formula, however, this service level is not reflected in the

governors' apportionments for small cities.

In light of this fact, section 3033 of the Transportation Equity Act for the 21st Century (TEA–21) (Pub. L. 105–178) calls for the Secretary of Transportation to ''conduct a study to determine whether the formula for apportioning funds to urbanized areas * * * accurately reflects the transit needs of the urbanized areas and, if not, whether any changes should be made either to the formula or through some other mechanism to reflect the fact that some urbanized areas with a population between 50,000 and 200,000 have transit systems that carry more passengers per mile or per hour than the average of those transit systems in urbanized areas with a population over 200,000.'' This report is to be submitted to the House Transportation and Infrastructure Committee and the Senate Banking, Housing, and Urban Affairs Committee by December 31, 1999, and is to contain both the results of this study and any suggested changes to the formula program.

III. Research Questions

The FTA is interested in receiving any comments or suggestions for conducting the study that interested parties might have. In particular, we would like to solicit comment on the following questions:

A. Formula Apportionment Factors

The section 5336 formulas use population and population weighted by population density as factors for both large and small urbanized areas. As described above, the formulas also use transit service factors (route-miles and revenue-vehicle miles) and operating factors (the incentive tier) for urbanized areas over 200,000 in population. Our questions on this topic include—

(1) Are population and population density adequate factors for use in apportioning funds to small urbanized areas? Are there specific reasons why other factors shouldn't be applied to these small cities?

(2) Should service factors also be applied to small urbanized areas in apportioning formula funds? In particular, should bus revenue-vehicle miles be applied to small urbanized areas as well? Should bus passenger miles and operating costs used in the incentive tier be applied to small urbanized areas?

It should be noted that small transit systems face different reporting requirements under the National Transit Database program than do their counterparts in larger systems and cities. For example, transit systems with fewer than 10 buses are not required to report annual bus revenue-vehicle miles. Passenger-mile data is also collected and reported less frequently for small cities: urbanized areas under 200,000 in population are only required to sample passenger-miles every 5 years, as opposed to every 3 years for areas between 200,000 and 500,000 in population and annually for most cities over 500,000.

B. Other Transit Funding Sources

Section 3033 of TEA–21 directs us to look at both formula changes and ''other mechanisms'' to reflect the needs of small, transit-intensive cities. For example, other sources of intergovernmental aid are aid available to local transit operators in small urbanized areas in addition to the section 5307 program. Our questions are—

(1) Would examining these other aid sources available to small urbanized areas be a useful and informative exercise?

(2) What other mechanisms besides changing the formula might be practical and useful in order to assist small transit-intensive cities?

Issued on: July 2, 1999.

Gordon J. Linton,

Administrator.

[FR Doc. 99–17422 Filed 7–8–99; 8:45 am]

BILLING CODE 4910–57–U

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33751]

Grand Trunk Western Railroad Incorporated and The Baltimore and Ohio Chicago Terminal Railroad Company—Joint Relocation Project Exemption—in Harvey, IL

Grand Trunk Western Railroad Incorporated (GTW), a subsidiary of Canadian National Railway Company, and The Baltimore and Ohio Chicago Terminal Railroad Company (B&OCT), a subsidiary of CSX Transportation, Inc., have jointly filed a notice of exemption under 49 CFR 1180.2(d)(5) to enter into a project to relocate lines of railroad in Harvey, IL.[1] The joint relocation project will facilitate more efficient operations and allow for the removal of unnecessary and duplicative trackage. The transaction was expected to be consummated on or after June 18, 1999, the effective date of the exemption.

GTW connects with the Illinois Central Railroad Company's (IC) main line adjacent to Markham Yard at Harvey. GTW and IC plan to improve their connection by constructing an additional connection within the existing right-of-way. B&OCT has a line parallel to GTW's line adjacent to the yard, crossing it just west of IC's line and running underneath IC's line. In order to construct the additional connection between GTW and IC, a segment of B&OCT's line will need to be removed. The carriers will construct the necessary connections between their lines to permit B&OCT trains to move from B&OCT's line onto GTW's line.

Under the joint project, GTW and B&OCT agree to the following: (1) GTW will grant B&OCT the right to operate, in non-exclusive overhead freight service, its trains and equipment with its own crews over the segment of GTW's railroad lines from GTW milepost 23.7 to milepost 22.5, South Bend Division; (2) GTW will grant B&OCT the right to use the new wye connection between GTW and IC for the purpose of B&OCT's access to IC; (3) B&OCT will abandon its line between mileposts 4.0 and milepost 2.6, Chicago Heights Subdivision, and grant to GTW a perpetual easement to the underlying right-of-way between B&OCT mileposts 3.6 and 3.1 for GTW's construction of a new connection to Markham Yard; (4) GTW will install turnouts and connecting tracks east of the current GTW/B&OCT rail crossing from GTW's south main line west of Vincennes Road, near GTW milepost 23.7, South Bend Division, to the GTW/B&OCT property line, as well as west of the current GTW/B&OCT rail crossing from GTW's north main line west of 150th Street in Harvey, near GTW milepost 22.5, South Bend Division, to the GTW/B&OCT property line; (5) B&OCT will realign its trackage east of the current GTW/B&OCT rail crossing west of Vincennes Road, at or near B&OCT milepost 4.0, Chicago Heights Subdivision, to the GTW/B&OCT property line, and west of the current GTW/B&OCT rail crossing west of 150th Street, at or near B&OCT milepost 2.6, Chicago Heights Subdivision, to the GTW/B&OCT property line.

The Board will exercise jurisdiction over the abandonment or construction components of a relocation project, and require separate approval or exemption, only where the removal of track affects service to shippers or the construction of new track involves expansion into a

[1] A redacted version of a Trackage Rights Agreement and a Supplement to Interlocking Agreement between GTW and B&OCT were filed with the notice of exemption. The full version of the agreements was concurrently filed under seal along with a motion for a protective order. The motion was granted and a protective order was served in this proceeding on June 21, 1999.

new territory. *See City of Detroit* v. *Canadian National Ry. Co., et al.*, 9 I.C.C.2d 1208 (1993), *aff'd sub nom., Detroit/Wayne County Port Authority* v. *ICC*, 59 F.3d 1314 (D.C. Cir. 1995). Line relocation projects may embrace trackage rights transactions such as the one involved here. *See D.T.&I.R.—Trackage Rights*, 363 I.C.C. 878 (1981). Under these standards, the incidental abandonment, construction, and trackage rights components require no separate approval or exemption when the relocation project, as here, will not disrupt service to shippers and thus qualifies for the class exemption at 49 CFR 1180.2(d)(5).

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

If the 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. 33751, 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 Robert P. vom Eigen, 888 16th Street, NW, Washington, DC 20006; and Charles M. Rosenberger, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

By the Board, David M. Konschnik, Director, Office of Proceedings.

Decided: June 30, 1999.

Vernon A. Williams,

Secretary.

[FR Doc. 99–17182 Filed 7–8–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Departmental Offices; Debt Management Advisory Committee Meeting

Notice is hereby given, pursuant to 5 U.S.C. App. § 10(a)(2), that a meeting will be held at the U.S. Treasury Department, 15th and Pennsylvania Avenue, N.W., Washington, D.C., on August 3, 1999, of the following debt management advisory committee:

The Bond Market Association
Treasury Borrowing Advisory Committee

The agenda for the meeting provides for a technical background briefing by Treasury staff, followed by a charge by the Secretary of the Treasury or his designate that the committee discuss particular issues, and a working session. Following the working session, the committee will present a written report of its recommendations.

The background briefing by Treasury staff will be held at 9:00 a.m. Eastern time and will be open to the public. The remaining sessions and the committee's reporting session will be closed to the public, pursuant to 5 U.S.C. App. § 10(d).

This notice shall constitute my determination, pursuant to the authority placed in heads of departments by 5 U.S.C. App. § 10(d) and vested in me by Treasury Department Order No. 101–05, that the closed portions of the meeting are concerned with information that is exempt from disclosure under 5 U.S.C. § 552b(c)(9)(A). The public interest requires that such meetings be closed to the public because the Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized, such a committee is recognized to be an advisory committee under 5 U.S.C. App. § 3.

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of the advisory committee, premature disclosure of the committee's deliberations and reports would be likely to lead to significant financial speculation in the securities market. Thus, these meetings fall within the exemption covered by 5 U.S.C. § 552b(c)(9)(A).

The Office of the Under Secretary for Domestic Finance is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. § 552b.

Dated: July 2, 1999.

Gary Gensler,

Under Secretary, (Domestic Finance).

[FR Doc. 99–17443 Filed 7–8–99; 8:45 am]

BILLING CODE 4810–25–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determinations: ''Ancient Near Eastern Art''

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985). I hereby determine that the objects to be included in the exhibit ''Ancient Near Eastern Art,'' imported from abroad for temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at the Metropolitan Museum of Art, New York, NY, beginning in the fall of 1999, for approximately three years, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For a copy of the list of exhibit objects or for further information, contact Lorie Nierenberg, Assistant General Counsel, Office of the General Counsel, United States Information Agency, at 202/619–6084, or USIA, 301 4th Street, SW, Room 700, Washington, D.C. 20547–0001.

Dated: July 6, 1999.

Les Jin,

General Counsel.

[FR Doc. 99–17531 Filed 7–8–99; 8:45 am]

BILLING CODE 8230–01–M

Corrections

Federal Register

Vol. 64, No. 131

Friday, July 9, 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.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL–6337–1]

RIN 2060–AH97

Test Methods: Three New Methods for Velocity and Volumetric Flow Rate Determination in Stacks or Ducts

Correction

In rule document 99–11796 beginning on page 26484 in the issue of Friday, May 14, 1999, make the following corrections:

Appendix A to Part 60—[Corrected]

Method 2F—Determination of Stack Gas Velocity And Volumetric Flow Rate With Three-Dimensional Probes [Corrected]

1. On page 26491, in the first column, in paragraph 3.20, in the 13th line, ''±°'' should read ''±3°''.

2. On page 26492, in the second column, in paragraph 6.4.1, in the 20th line ''(P_1–P_2'' should read ''(P_1–P_2)''.

3. On page 26495, in the third column, in paragraph 9.1.1, in the fifth line, ''πP'' should read ''ΔP''.

4. On page 26497, in the first column, in paragraph 10.3.4, in the eighth line ''0'' should read ''θ''.

5. On page 26498, in the first column, in paragraph 10.6.2, in the second line, ''(F–1) versus pitch angle)'' should read ''(F_1 versus pitch angle)''.

6. On page 26499, in the second column, in paragraph 12.0, in the fifth line, ''($v_{a(i))}$'' should read ''($v_{a(i)}$)''.

7. On the same page, in the same column, in the same paragraph, in the tenth line, ''(v_a (avg))'' should read ''($v_{a\ (avg)}$)''.

8. On the same page, in the same column, under paragraph 12.1 Nomenclature, in the sixth line, ''Kp'' should read ''K_p''.

9. On page 26501, in the third column, in paragraph 18.1, in the sixth line, ''(RADO)'' should read ''R_{ADO}''.

10. On page 26503, in the first column, in paragraph 18.4.2.6, in the second line, ''T_{null}'' should read ''θ_{null}''.

11. On the same page, in the second column, in paragraph 18.4.2.7, in the fourth line, ''T_{null}'' should read ''θ_{null}''.

12. On th same page, in the same column, in the same paragraph, in the same line, ''$(90° - T_{null})$'' should read ''$(90° - \theta_{null})$''.

Method 2G—Determination of Stack Gas Velocity and Volumetric Flow Rate With Two-Dimensional Probes [Corrected]

13. On page 26524, in the third column, in paragraph 3.21, in the 13th line, ''±3 of 0'' should read ''±3° of 0°''.

14. On page 26530, in the first column, in paragraph 10.1.2.1, in the ninth line from the bottom, ''±3@ of 0@'' should read ''±3° of 0°''.

15. On the same page, in the second column, in paragraph 10.1.3.2, in the third line, ''3'' should read ''±3''.

16. On the same page, in the third column, in paragraph 10.3.3.2, in the fifth line, ''#2'' should read ''±2''.

17. On page 26531, in the first column, in the first line, ''#2'' should read ''±2''.

18. On the same page, in the same column, in paragraph 10.3.4, in the eighth line, ''angle '''' should read ''angle θ''.

19. On the same page, in the same column, in the same paragraph, the last sentence is corrected to read as follows: ''The difference of the sum of the two readings from 180° (i.e., 180°-R_1-R_2) shall be within ±2° of the known angle, θ.''

20. On the same page, in the third column, in paragraph 10.5.8, in the first line, ''RSLO'' should read ''R_{SLO}''.

21. On page 26532, in the second column, in paragraph 10.6.6, in the second line, ''(ΔPstd)'' should read (ΔP_{std})''.

22. On the same page, in the third column, in paragraph 10.6.12.1, in the first line, ''C_ρ'' should read ''C_p''.

23. On page 26533, in the first column, in paragraph 12.0, in the fifth line, ''($_{a(ii)}$)'' should read ''($v_{a(i)}$)''.

24. On th same page, in the same column, in the same paragraph, in the last line, ''$a_{(avg)}$'' should read ''($v_{a(avg)}$)''.

25. On the same page, in the same column, under paragraph 12.1 Nomenclature, in the second line, ''m_2 (ft_2)'' should read ''m^2 (ft^2)''.

26. On the same page, in the second column, in the 28th line, ''$ts_{(i)}$ = Stack or duct temperature, °C (°F), at traverse point i'' should read ''$t_{s(i)}$ = Stack or duct temperature, °C (°F), at traverse point i.''

27. On page 26536, in the third column, in paragraph 18.4.2.1.2, in the third line ''°'' should read '' 0°''.

Method 2H—Determination of Stack Gas Velocity Taking Into Account Velocity Decay Near the Stack Wall [Corrected]

28. On page 26554, in the first column, in paragraph 3.1, in the first line, ''Complete wall effects traverse'' should read ''*Complete wall effects traverse*''.

29. On page 26557, in the second column, in the fourth line, ''$Q_{d1 \rightarrow \searrow last}$'' should read ''$Q_{d_1 \rightarrow d_{last}}$''.

30. On the same page, in the same column, in the 34th line, ''$\hat{v}_{ej}$'' should read ''$\hat{v}e_j$''

31. On the same page, in the same column, in the 52nd line, ''*WAF*'' should read, ''*WAF*''.

32. On the same page, in the third column, in the first line ''$\hat{v}_{avg(k)}$'' should read ''$v_{avg(k)}$''.

33. On the same page, in the same column, in paragraph 12.4, in the second line, ''$\ddot{v}_j$'' Should read ''$\hat{v}e_j$''.

34. On the same page, in the same column, in the third and second line from the bottom, ''*enter the corresponding calculated value of*'' should read ''enter the corresponding calculated value of''.

35. On page 26558, in the first column, equation 2H–10 is corrected to read as follows:

$$Q_{d_1 \rightarrow d_{last}} = \sum_{d=1}^{d_{last}} Q_d \qquad \text{Eq. 2H-10}$$

36. On the same page, in the second column, in the first line, ''$Q_{d1 \rightarrow dlast}$'' should read ''$Q_{d_1 \rightarrow d_{last}}$''.

37. On the same page, in the first column, in paragraph 12.4.6, in the first line following equation 2H–13, ''μ_{drem}'' is corrected to read ''v_{drem}''.

38. On the same page, in the same column in the same paragraph, in the fourth line following equation 2H–13, ''d_{drem}'' should read ''d_{rem}''.

39. On the same page, in the same column, in the eighth line from the bottom, ''μe'' should read ''$\hat{v}e_j$''

40. On the same page, in the same column, in paragraph 12.5, in the second line, ''velocity,'' should be corrected to read, ''velocity, $\hat{v}_{avg}$''.

41. On the same page, in the same column, in the same paragraph, in the third line, ''$\hat{\mu}_{avg}$'' should read ''ve_j''

42. On the same page, in the same column, in the same paragraph, in the fifth line ''$\hat{\mu}e$'' should read ''$\hat{v}e_j$''.

43. On the same page, in the third column, in paragraph 12.7.1, in the last line, ''μ_{avg}'' should read ''v_{avg}''.

44. On the same page, in the same column, in the seventh line from the bottom, ''*WAF*'' should read, ''*WAF*''.

45. On the same page, in the third column, in the second line from the bottom, ''$\mu_{avg(k)}$'' should read ''$v_{avg(k)}$''.

46. On page 26559, in the first column, in paragraph 12.8, in the fifth line, ''μ_s'' should read ''v_s''

47. On the same page, in the same column, in the same paragraph, in the sixth line, ''$\mu_{a(avg)}$)'' should read ''$v_{a(avg)}$''.

48. On the same page, in the same column, in the same paragraph, in the same line, ''a'' should be removed.

49. On the same page, in the same column, in the same paragraph, in the eighth line, ''$\mu_{a(avg)}$)'' should read ''$v_{a(avg)}$''.

50. On the same page, in the same column, in paragraph 12.8.1, in the third line, ''$\mu_{final,}$'' should read ''$\hat{v}_{final}$,''.

51. On the same page, in the same column, in paragraph 12.8.2, in the third line ''$\mu_{final(k),}$'' should read ''$\hat{v}_{final(k)}$,''

[FR Doc. C9–11796A Filed 7–8–99; 8:45 am]

BILLING CODE 1505–01–D

Friday
July 9, 1999

Part II

General Services Administration

48 CFR Chapter 5

General Services Administration Acquisition Regulation; Interim Rule

GENERAL SERVICES ADMINISTRATION

48 CFR Chapter 5

RIN 3090–AE90

General Services Administration Acquisition Regulation

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Interim rule with request for comments.

SUMMARY: The General Services Administration (GSA) is revising the General Services Administration Acquisition Regulation (GSAR) in its entirety. GSA has rewritten the GSAR into plain English, included only regulatory material, and removed internal agency guidance. GSA has also updated the GSAR to reflect recent changes to the Federal Acquisition Regulation (FAR). GSA intends the reissued GSAR to be simpler to understand and less burdensome for contractors and offerors, GSA contracting personnel, and contracting personnel in other agencies delegated contracting authority subject to following GSAR procedures.

DATES: *Effective Date:* September 1, 1999. Comments should be submitted in writing to the address shown below on or before September 7, 1999.

ADDRESSES: Mail comments to General Services Administration, Office of Acquisition Policy, GSA Acquisition Policy Division (MVP), 1800 F Street, NW, Room 4012, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Gloria Sochon, GSA Acquisition Policy Division, (202) 208–6726.

SUPPLEMENTARY INFORMATION:

A. Background

On January 28, 1992, the President directed agencies to evaluate their regulatory programs and eliminate certain rules that restrict the economy. On September 11, 1993, the President directed agencies to eliminate at least half of their internal management regulations. While these directives did not apply to GSA acquisition regulations, GSA initiated a review and rewrite of the GSAR following the same principles. The GSAR, as reissued—

—Uses plain English to improve clarity and understanding.

—Reduces the amount of regulatory material.

—Eliminates internal operating procedures that do not have a significant effect beyond GSA, or a significant cost or administrative impact on contractors or offerors.

—Eliminates guidance which merely implements or supplements the Federal Acquisition Regulation (FAR) without a significant cost or administrative impact on contractors or offerors, or an effect beyond GSA's internal operating procedures.

—In subparts 503, 515, 552, and 570, incorporates changes from the interim rule published in the **Federal Register** at 63 FR 18843, April 16, 1998 (ADP 2800.12A, CHGE 79). GSA received no comments on this interim rule. The interim rule updated regulation procedures for acquisitions of leasehold interests in real property for consistency with FAR Part 15 where applicable. The interim rule is incorporated with editorial changes for plain language, more clear organization, and consistency in cross references.

—In subparts 504.5 and 505.1, provides guidance on use of GSA's Electronic Posting System for issuing synopses and solicitations.

—In subparts 511, 516, 542, and 552 incorporates changes from the interim rule published in the **Federal Register** at 64 FR 4788, February 1, 1999 (ADP 2800.12A, CHGE 81). The interim rule clarified requirements for making deliveries under contracts that provide for delivery to both civilian and military locations, clarified the contracting activities authorized to place orders under Federal Supply Service (FSS) contracts, allowed Procuring Contracting Officers (PCOs) in FSS to authorize Administrative Contracting Officers (ACOs) to issue cure or show causes notices, revised the time for submission of close-out reports under FSS multiple award contracts (MAS), and simplified the process for deleting items from FSS MAS contracts. Only the Department of Veterans Affairs (VA) submitted comments. VA requested that the authority to delete items without prior approval be optional for VA because of potential conflicts with its Prime Vendor system. VA also requested that publication requirements for supplemental price lists be clarified to reflect workdays and be based on calendar months. GSA adopts these comments. VA also requested that section 552.216–73 identify a GSA contact for information on authorized schedule users. This comment is not adopted. Questions regarding authorized users should be referred to the contracting officer.

—In subparts 515.3, 537.2, and 552.237–73, provides guidance on use of outside evaluators. GSA published a proposed rule on disclosure and use of proprietary information in the **Federal Register** at 58 FR 42715, August 11, 1993. GSA received 18 comments from 5 respondents and considered all comments in preparing this interim rule. Two principal areas of concern from industry concerned adding a requirement for nongovernment evaluators to execute nondisclosure agreements directly with the owners of proposal information and clarification of available remedies for violations. GSA will not require nondisclosure agreements between outside evaluators and the owner of proposal information. Such a requirement would be impractical to administer and does not add to the protection afforded the owner of the information. The owner of proposal information has remedies under the Trade Secrets Act. The Government has contractual and legal remedies, including those defined at FAR 3.104, FAR 52.203–8 and 52.203–10, GSAR 552.237–73, and the termination provisions of the contract.

—In sections 532.71 and 552.232–1, allows automatic payment for recurring services (i.e., fixed roll payment).

—In sections 536.271 and 552.236–83, establishes procedures for using project labor agreements for large and significant Federal construction projects.

—Incorporates updates to remain consistent with the FAR through Federal Acquisition Circular (FAC) 97–10, including:

—Revises section 503.1 to eliminate references to certifications and parallel the organization of FAR section 3.1.

—In section 511.404(a)(1), updates the FAR reference from FAR 52.211–1 to FAR 52.211–8.

—Reorganizes Part 513 to correspond to FAR Part 13.

—Eliminates certifications that are not based on statute, including section 514.303 (eliminating the requirement that the receipt for withdrawal of a bid certify the representative's authority), section 528.301 (deleting the reference to certification of insurance and deferring to applicable FAR clauses), and sections 537.110 and 552.237–72 (changing the certification regarding quasi-military armed forces to a prohibition).

—Reorganizes and updates Part 515 to correspond to FAR part 15.

—Makes conforming changes to rules on cost and pricing data and information other than cost or pricing data in Part 515.

—Updates subpart 519.8 and section 552.219–74, to conform to changes in FAC 97–05 and 97–06, and to add direct section 8(a) award authority based on a Memorandum of Understanding with the Small Business Administration.
—Updates subparts headings in Part 528 to correspond to subpart headings in the FAR.
—Implements agency protest procedures in sections 533.103 and 552.233–70.
—Reorganizes Part 542 to correspond to FAR Part 42.
—Updates prescription citations in Part 552 to conform to the revised Parts 501–550 and 570.
—Deletes the following sections from Part 552, which are either obsolete or duplicate FAR provisions or clauses:

552.203–4 Contingent Fee Representation and Agreement
552.214–16 Minimum Bid Acceptance Period
552.214–74 Solicitation Copies
552.225–70 Buy American Act—Hand or Measuring Tools or Stainless Steel

Flatware

552.225–72 Eligible Products from Nondesignated Countries—Waiver
552.225–75 Buy American Act Notice—Construction Materials
552.228–70 Bid Guarantee and Bonds
552.228–71 Bid Guarantee
552.228–72 Performance Bond
552.228–73 Performance and Payment Bonds
552.233–70 Disputes (Utility Contract)
552.236–83 Furnishing Information and Records
552.270–40 Asbestos and Hazardous Waste Management.

—Renumbers section 552.211–1 to 552.211–8 for consistent cross-numbering to the corresponding clause of FAR 52.211–8.
—Incorporates a clause at sections 552.212–71 and 552.238–78, Cancellation, required by the Federal Supply Service for multiple award schedule contracts.
—At section 552.212–71, Contract Terms and Conditions Applicable to GSA Acquisition of Commercial Items, separates provisions from clauses and updates references to revised provisions and clauses.
—At section 552.212–72, Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to GSA Acquisition of Commercial Items, separates provisions from clauses; adds 552.225–8, Buy American Act—Trade Agreements—Balance of Payments Program Certificate and 552.225–9, Buy American Act—Trade Agreements—Balance of Payments Program; and updates references to revised provisions and clauses.
—At section 552.216–70, Economic Adjustment—FSS Multiple Award Schedule Contracts, corrected the title of the clause for internal consistency.
—At section 552.225–8, Buy American Act—Trade Agreements—Balance of Payments Program Certificate, conforms the name to the related FAR provisions.
—At section 552.225–9, Buy American Act—Trade Agreements—Balance of Payments Program, conforms the name to the related FAR clause.
—At section 552.225–70, Buy American Act-Hand of Measuring Tools or Stainless Steel Flatware, updates GSAR references.
—At section 552.228–70, Workers' Compensation Laws, changes ''workermen's'' to ''workers''' to conform to FAR references.
—At section 552.232–23, Assignment of Claims, deletes references to ''delivery'' orders so that the clause covers both delivery and task orders.
—At section 552.232–70, Invoice Requirements, deletes references to ''purchase'' and ''delivery'' orders so that the clause covers purchase, delivery, and task orders.
—At section 552.232–76, Electronic Funds Transfer Payment, updates the clause to conform the information required under leases for real property to FAR requirements for other contracts.
—At section 552.232–77, Payment by Credit Card, updates procedures for consistency with the new Government credit card contract and removes ''delivery'' so that the clause covers both delivery and task orders.
—At section 552.236.77, Specifications and Drawings, corrects the reference to the FAR clause at 52.236–21, Specifications and Drawings for Construction.
—At section 552.236–78, Shop Drawings, Coordination Drawings, and Schedules, corrects the reference to the FAR clause at 52.236–21, Specifications and Drawings for Construction.
—At section 552.238–74, Contractor's Report of Sales, updates references to the clause at 552.238–76, Industrial Funding Fee and adds task orders in paragraph (a).
—At section 552.238–76, Industrial Funding Fee, updates references to the clause at 552.238–75, Contractor's Report to Sales.
—At section 552.243–71, Equitable Adjustments, revises a reference from ''workmen's'' to workers''' to conform to references in the FAR.
—At section 552.243–72, Modifications (Multiple Award Schedule), updates references to GSAR clauses.
—At section 552.246–70, Source Inspection by Quality Approved Manufacturer, corrects the numbering of subparagraphs in paragraph (b).
—At section 552.247–71, Diversion of Shipment Under F.O.B. Destination Contracts. The clause authorizes GSA to unilaterally direct shipment of an order to an alternate location. Prior to changes resulting from the Federal Acquisition Streamlining Act, FAR 52.243–1, Changes—Fixed Price, and 52.247–54, Diversion of Shipment Under F.O.B. Destination Contracts, provided the Government the right to unilaterally change the place of delivery and defined the basis for making related price adjustments GSA's Federal Supply Service (FSS) used these clauses to implement efficient inventory management in the Stock, SOP, and Single Award Schedule programs. The authority to divert shipment to certain volume orders allows FSS to maintain optimum inventory levels and minimize space, storage, handling, and related expenses. It also allows FSS to respond quickly to customer agency needs. FAR 52.212–4(c) allows changes ''only by written agreement of the parties.'' This requires FSS to process a bilateral modification for each order when directing shipment to an alternate location would be in the Government's best interest. This creates unacceptable delays in processing orders and responding to customer agencies' needs. It also cause FSS to maintain excessive stock levels and storage facilities in order to respond to unusual orders. This unnecessarily increases FSS costs, and in turn, costs to customer agencies. The ability to unilaterally direct shipments improves responsiveness and reduces costs in the Government's best interest.
—At section 552.225–5, Authorized Deviations in Provisions, conforms the provision to changes in FAR 52.252–5.
—At section 552.252–6, Authorized Deviations in Clauses, conforms the clause to changes in FAR 52.252–6.
—Revises the following clauses applicable to leases of real property to provide a common standard to measuring usable square feet based on the Building Owners and Managers Association definition:

552.270–2 Historic Preference.
552.270–4 Definitions
552.270–14 Changes
552.270–16 Adjustment for Vacant Premises

552.270–18 Default in Delivery—Time Extensions
552.270–20 Payment
552.270–29 Acceptance of Space

—Redesignates provisions and clauses so that they appear in the sequence referred to in parts 501–551 and 570.

Old section	New section
552.203–73	552.203–70
552.203–70	552.203–71
552.209–73	552.209–70
552.209–74	552.209–71
552.209–75	552.209–72
552.209–76	552.209–73
552.214–73	552.214–70
552.214–75	552.214–71
552.214–76	552.214–72
552.216–71	552.216–70
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552.216–74	552.216–73
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552.219–72	552.219–71
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552.219–74	552.219–73
552.223–71	552.223–72
552.223–72	552.223–71
552.225–71	552.225–70
552.228–75	552.228–70
552.229–72	552.229–71
552.232–70	552.232–74
552.232–71	552.232–75
552.232–72	552.232–70
552.232–73	552.232–76
552.232–77	552.232–73
552.232–78	552.232–71
552.232–79	552.232–72
552.232–80	552.232–77
552.238–72	552.238–74
552.238–74	552.238–71
552.238–75	552.238–72
552.238–76	552.238–75
552.238–77	552.238–76
552.246–71	552.246–72
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552.270–4	552.270–2
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552.270–10	552.270–4
552.270–11	552.270–5
552.270–12	552.270–6
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552.270–16	552.270–9
552.270–17	552.270–10
552.270–18	552.270–11
552.270–19	552.270–12
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552.270–31	552.270–20
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552.270–33	552.270–22
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552.270–37	552.270–26
552.270–38	552.270–27
552.270–39	552.270–28
552.270–41	552.270–29

B. Executive Order 12866

This rule was submitted to the Office of Management and Budget (OMB) under Executive Order 12866. This is not a major rule under 5 U.S.C. 804.

C. Regulatory Flexibility Act

This interim rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The guidance on disclosure and use of proprietary information implements agency procedures for releasing proposals outside the Government for evaluation and provide a contract clause to ensure that evaluation contractors protect proposal information appropriately. The agency protest procedures offer vendors an alternate forum which is quicker and less expensive than protests to the General Accounting Office or the Courts. The other revisions do not add any new requirements; but reduce the number of agency regulations, restate existing requirements in plain English, and provide consistency with the FAR. These revisions streamline GSA acquisition rules, provide greater flexibility, and promote understanding.

D. Paperwork Flexibility Act

The reissued GSAR contains information collection requirements subject to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) which were approved previously by OMB and assigned the control numbers shown in section 501.106.

E. Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule under 5 U.S.C. 804. This rule was submitted to Congress and GAO under 5 U.S.C. 804.

F. Determination to Issue an Interim Rule

Urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. Many of the updates to consistency with the FAR are necessary to comply with statute or Executive Orders. For example, this rule implements Section 29 of the Office of Federal Procurement Policy Act (41 U.S.C. 425), eliminating certifications not required by statute or approved by the Office of Federal Procurement Policy, and Executive Order 12979, Agency Procurement Protests, providing inexpensive, informal, simple, and quick resolution of protests. Other changes necessary for consistency with the FAR implement streamlined and innovative acquisitions procedures that benefit contractors, offerors, and GSA contracting personnel, such as GSA implementation of new FAR Part 15 source selection procedures. Further, the rule provides significant benefits to the Federal government, offerors, and contractors by:

—Reducing the number of agency regulations, which reduces administrative burden and promotes flexibility in the acquisition process.

—Restates requirements in plain English, which promotes understanding.

—Provides consistency with the FAR, which eliminates conflicts and reduces confusion.

However, pursuant to Pub. L. 98–577 and FAR 1.501, GSA will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Chapter 5

Government procurement.

Dated: June 16, 1999.

Ida M. Ustad,

Deputy Associate Administrator for Acquisition Policy.

Accordingly, the General Services Administration revises 48 CFR Chapter 5, to read as follows:

CHAPTER 5—GENERAL SERVICES ADMINISTRATION

SUBCHAPTER A—GENERAL

Part
501 General Services Administration Acquisition Regulations System
502 Definitions of Words and Terms
503 Improper Business Practices and Personal Conflicts of Interest
504 Administrative Matters

SUBCHAPTER B—COMPETITION AND ACQUISITION PLANNING

505 Publicizing Contract Actions
509 Contractor Qualifications
511 Describing Agency Needs
512 Acquisition of Commercial Items

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

513 Simplified Acquisition Procedures
514 Sealed Bidding
515 Contracting by Negotiation
516 Types of Contracts
517 Special Contracting Methods

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

519 Small Business Programs
522 Application of Labor Laws to Government Acquisitions
523 Environment, Conservation, Occupational Safety and Drug-Free Workplace
525 Foreign Acquisition

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

527 Patents, Data, and Copyrights
528 Bonds and Insurance
529 Taxes
532 Contract Planning
533 Protests, Disputes, and Appeals

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

536 Construction and Architect-Engineer Contracts
537 Service Contracting
538 Federal Supply Schedule Contracting

SUBCHAPTER G—CONTRACT MANAGEMENT

542 Contract Administration and Audi Services
543 Contract Modifications
546 Quality Assurance
547 Transportation
549 Termination of Contracts

SUBCHAPTER H—CLAUSES AND FORMS

552 Solicitation Provisions and Contract Clauses
553 Forms

SUBCHAPTER I—SPECIAL CONTRACTING PROGRAMS

570 Acquiring Leasehold Interests in Real Property

SUBCHAPTER A—GENERAL

PART 501—GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION SYSTEM

Subpart 501.1—Purpose, Authority, Issuance

Sec.
501.101 Purpose
501.103 Authority
501.104 Applicability
501.105 Issuance
501.105–1 Publication and code arrangement
501.105–2 Arrangement of regulations
501.105–3 Copies
501.106 OMB Approval under the Paperwork Reduction Act

Subpart 501.4—Deviations From the FAR and GSAR

501.402 Policy
501.403 Individual deviations
501.404 Class deviations

Authority: 40 U.S.C. 486(c).

Subpart 501.1—Purpose, Authority, Issuance

501.101 Purpose.

(a) The General Services Acquisition Regulation (GSAR) contains agency acquisition policies and practices, contract clauses, solicitation provisions, and forms that control the relationship between GSA and contractors and prospective contractors.

(b) GSAR address rules directly to you, the contracting officer, unless otherwise indicated.

501.103 Authority.

GSA's Senior Procurement Executive issues the GSAR under the authority of the Federal Property and Administrative Services Act of 1949, as amended.

501.104 Applicability.

(a) *General.* The GSAR applies to contracts for suppliers or services, including construction.

(b) *Acquisition of leasehold interests in real property.* Part 570 establishes rules for the acquisition of leasehold interests in real property. Other provisions of 48 CFR chapter 5 (GSAR) do not apply to leases of real property unless specifically cross-reference in part 570.

(c) *Relationship to state.* Some GSAR rules implement and interpret laws and other authorities affecting procurement. A GSAR rule specifically directed by statute has the force and effect of law.

(d) *GSAR/FAR Relationship.* The GSAR may deviate from the Federal Acquisition Regulation (FAR) if authorized. If the GSAR does not implement the FAR, the FAR alone governs.

501.105 Issuance.

501.105–1 Publication and code arrangement.

The GSAR is published in the following sources:

(a) Daily issue of the **Federal Register.**

(b) Annual Code of Federal Regulations (CFR), as Chapter 5 of Title 48.

(c) GSA Acquisition Manual distributed within GSA.

(d) GSA Home Page at http://www/gas.gov. Click on either ''Government Agencies'' or on ''Business and Industry,'' the click on ''Acquisition.''

501.105–2 Arrangement of regulations.

(a) The GSAR numbers and captions policies and procedures to correspond to how they appear in the FAR, e.g., 1.104 in the FAR is 501.104 in the GSAR.

(b) GSAR rules not implementing the FAR have numbers beginning with 70, e.g., part 570, subsection 515.209–70.

(c) The GSAR may have gaps in its numbering scheme because a FAR rule may not require GSAR implementation.

501.105–3 Copies.

The GSAR in CFR form may be purchased from: Superintendent of Documents, Government Printing Office, Washington, DC 20402.

501.106 OMB approval under the Paperwork Reduction Act.

GSAR Reference	OMB Control No.
509.105–1(a)	3090–0007
511.170–3(a)	3090–0203
511.170–3(c)	3090–0203
511.204(d)	3090–0246
511.404(a)(1)	3090–0204
511.404(a)(2)	3090–0204
511.404(a)(5)	3090–0204
514.201–7(a)	3090–0200
516.203–4(a)(1)	3090–0243
516.506	3090–0248
519.708(b)	3090–0252
522.406–6	1215–0149
523.370	3090–0205
532.111(c)	3090–0080
532.905–70	9000–0102
532.905–71	3090–0080
537.110(a)	3090–0197
537.110(b)	3090–0006
538.273(a)(1)	3090–0250
538.273(a)(3)	3090–0262
538.273(b)(1)	3090–0121
542.1107	3090–0027
546.307–70	3090–0027
546.302–71	3090–0027
549.502(b)	3090–0027
552.211–8	3090–0204
552.211–70	3090–0203
552.211–77	3090–0246
552.211–78	3090–0204
552.211–82	3090–0204
552.214–71	3090–0200
552.216–70	3090–0243
552.216–72	3090–0248
552.216–73	3090–0248
552.219–72	3090–0252
552.223–72	3090–0205
552.232–72	3090–0080
552.237–70	3090–0197
552.237–71	3090–0006
552.238–70	3090–0250
552.238–72	3090–0262
552.238–74	3090–0121
552.242–70	3090–0027
552.246–70	3090–0027
552.246–71	3090–0027
552.249–71	3090–0227
GSA–72–A	3090–0121
GSA–527	3090–0007
GSA–618–D	1215–0149
GSA–1142	3090–0080
GSA–1364	3090–0086
GSA–1678	3090–0027
GSA–2419	9000–0102
570.702(c)	3090–0086

Subpart 501.4—Deviations From the FAR and GSAR

501.402 Policy.

Uniformity is a goal of GSA's Acquisition Regulation System. Despite this desire for uniformity, a contracting activity may take any of the following actions:

(a) Develop and test new procedures and techniques.

(b) Adopt alternate procedures in the public interest for unique programmatic or managerial requirements

(c) Deviate from a regulatory provision implementing a statutory requirement provided the deviation does not violate the underlying statute. Deviations must not be used to defeat the FAR and GSAR approval requirements.

501.403 Individual deviations.

(a) The Contracting Director approves individual deviations from the FAR and GSAR.

(b) If GSA delegates authority to another agency and requires compliance with the GSAR as a condition of the delegation, the Contracting Director in the agency receiving the delegation may approve individual deviations from the GSAR unless the agency head receiving the delegation designates another official.

(c) Send a copy of each deviation to GSA's Senior Procurement Executive (MV).

501.404 Class deviations.

(a) HCAs approve class deviations from the FAR and GSAR.

(b) If GSA delegates authority to another agency and requires compliance with the GSAR as a condition of the delegation, the HCA in the agency receiving the delegation may approve class deviations from the GSAR unless the agency head receiving the delegation designates another official.

(c) Send a copy of each deviation to GSA's Senior Procurement Executive (MV).

(d) A request for class deviations must be supported by statements that fully describe the need for and the nature of the deviation.

(e) Class deviations from the GSAR:

(1) Expire in 12 months if not extended.

(2) May be rescinded earlier by GSA's Senior Procurement Executive or by officials designated under paragraph (a) of this section without prejudice to any action taken previously.

PART 502—DEFINITIONS OF WORDS AND TERMS

Authority: 40 U.S.C. 486(c).

Subpart 502.1—Definitions

502.101 Definitions.

Agency competition advocate means the GSA Competition Advocate in the Office of Acquisition Policy.

Assigned counsel means the attorney employed by the Office of General Counsel (including offices of Regional Counsel) assigned to provide legal review or assistance.

Contracting activity competition advocate means the individual designated in writing by the head of the contracting activity (HCA). This authority may not be redelegated. The HCA must ensure that the designated competition advocate is not assigned any duty or responsibility that is inconsistent with the advocacy function. The identity of the designated official shall be communicated to procuring staff and the Senior Procurement Executive.

Contracting director means:

(a) Except in FSS, a director of a Central Office or Regional office Division responsible for performing contracting or contract administration functions.

(b) In FSS, a director of a Commodity Center or FSS Bureau.

Contracting officer's representative (COR), contracting officer's technical representative (COTR), or contract administrator means a Government employee designated in writing by the contracting officer to perform specific limited activities for the contracting officer, such as contract administration.

Debarring official or *suspending official* means the Senior Procurement Executive or a designee.

Head of the contracting activity means the Deputy Associate Administrator for Acquisition Policy (MV); Commissioners of the Federal Technology Service (FTS); Federal Supply Service (FSS), or Public Buildings Service (PBS); or Regional Administrators. The Deputy Associate Administrator for Acquisition Policy serves as the HCA for Central Office contracting activities outside of FTS, FSS, and PBS.

Senior procurement executive means the Deputy Associate Administrator for Acquisition Policy.

Senior program official means a person reporting to, and designated by, the HCA to have overall program responsibility for determining how the agency will meet its need. The official should have a position of authority over the participating offices. Examples include Assistant Regional Administrators or Deputy Commissioners.

PART 503—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 503.1—Safeguards

Sec.
503.104 Procurement integrity
503.104–3 Definitions
503.104–9 Contract clauses

Subpart 503.2—Contractor Gratuities to Government Personnel

503.204 Treatment of violations

Subpart 503.4—Contingent Fees

503.404 Contract clause

Subpart 503.5—Other Improper Business Practices

503.570 Advertising
503.570–1 Policy
503.570–2 Contract clause

Subpart 503.7—Voiding and Rescinding Contracts

503.702 Definition
503.705 Procedures

Authority: 40 U.S.C. 486(c).

Subpart 503.1—Safeguards

503.104 Procurement integrity.

503.104–3 Definitions.

Federal agency procurement as used in FAR 3.104 and in this section, also means acquisitions of leasehold interests in real property.

503.104–9 Contract clauses.

Acquisitions of Leasehold Interests in Real Property

Insert a clause substantially the same as the clause at 552.203–70, Price Adjustment for Illegal or Improper Activity, in solicitations and contracts for and modifications to leasehold interests in real property exceeding $100,000.

Subpart 503.2—Contractor Gratuities to Government Personnel

503.204 Treatment of violations.

(a) The Senior Procurement Executive, or designee, makes determinations under FAR 3.204.

The Senior Procurement Executive, or designee, takes all the following actions:

(1) Coordinates with legal counsel.

(2) Initiates proceedings under FAR 3.204(a) by notifying the contractor that GSA is considering action against the contractor for a violation of the Gratuities clause. Notice is sent by a certified letter to the last known address of the party, its counsel, or agent for service of process. In the case of a business, notice is sent to any partner, principal officer, director, owner or co-owner, or joint venture.

(3) Presumes receipt if no return receipt is received within 10 calendar days after mailing the notice.

(b) The contractor has 30 calendar days to exercise its rights under FAR 3.204(b), unless the Senior Procurement Executive, or designee, grants an extension.

(c) If there is a dispute of fact material to making a determination, the Senior Procurement Executive, or designee, may refer the matter to an agency fact-finding official designated by the

Chairman of the GSA Board of Contract Appeals. Referrals for fact-finding are not made in cases arising from a conviction or indictment as defined in FAR 9.403. If a referral is made, the fact-finding official takes all the following actions:

(1) Gives the contractor an opportunity to dispute material facts relating to the determinations under FAR 3.204(a)(1) and (2).

(2) Conducts proceedings under rules consistent with FAR 3.204(b).

(3) Schedules a hearing within 20 calendar days of receipt of the referral. The contractor or GSA may request an extension for good cause.

(4) Delivers to the Senior Procurement Executive, or designee, written findings of fact (together with a transcription of the proceedings, if made) within 20 calendar days after the hearing record closes. The findings must resolve any material disputes of fact by a preponderance of the evidence.

(d) The Senior Procurement Executive, or designee, may reject the findings of the fact-finding official only if the findings are clearly erroneous or arbitrary and capricious.

(e) In cases arising from conviction or indictment, or in which there are no disputes of material fact, the Senior Procurement Executive, or designee, conducts the hearing required by FAR 3.204(b).

(f) If the Gratuities clause was violated, the contractor may present evidence of mitigating factors to the Senior Procurement Executive, or designee, either orally or in writing, in accordance with a schedule the Senior Procurement Executive, or designee, establishes. The Senior Procurement Executive, or designee, exercises the Government's rights under FAR 3.204(c) only after considering mitigating factors.

Subpart 503.4—Contingent Fees

503.404 Contract clause.

Insert 552.203–5, Covenant Against Contingent Fees, in solicitations and contracts for the acquisition of leasehold interests in real property expected to exceed $100,000.

Subpart 503.5—Other Improper Business Practices

503.570 Advertising.

503.570–1 Policy.

GSA policy precludes contractors from referring to GSA contracts in commercial advertising in a manner that states or implies the Government approves or endorses the product or service or considers it superior to other products or services. The intent of this policy is to prevent the appearance of Government bias toward any product or service.

503.570–2 Contract clause.

Insert the clause at 552.203–71, Restriction on Advertising, in solicitations and contracts, including acquisitions of leasehold interests in real property, if the contract amount is expected to exceed the simplified acquisition threshold.

Subpart 503.7—Voiding and Rescinding Contracts

503.702 Definition.

Notice means a letter sent by certified mail with a return receipt requested to the last known address of a party, its counsel, or agent for service of process. In the case of a business, such notice may be sent to any partner, principal officer, director, owner or co-owner, or joint venturer. If no return receipt is received within 10 calendar days of mailing, receipt is presumed.

Voiding and rescinding official means the Senior Procurement Executive or designee.

503.705 Procedures.

(a) *Contracting officer's actions:*

(1) If a contract is tainted by misconduct, consult with assigned counsel to determine if the Government has a common law remedy such as avoidance, rescission, or cancellation.

(2) If the contractor has a final conviction for a violation under 18 U.S.C. 201–224, you may refer the matter to the voiding and rescinding official under FAR 3.705.

(i) In the referral, identify the final conviction and include the information required by FAR 3.705(d)(2) through (5).

(ii) Coordinate the referral with the Office of Inspector General to determine whether to recommend debarment.

(3) You may postpone a decision to exercise the Government's common law right to void, rescind, or cancel a contract until completion of legal proceedings against the contractor.

(b) *Voiding and rescinding official's actions:*

(1) The voiding and rescinding official reviews the referral and coordinates with assigned counsel and the contracting activity.

(2) If the official decides to declare void and rescind a contract and to recover the amounts expended and the property transferred, the official takes both the following actions:

(i) Issues the notice required by FAR 3.705.

(ii) Conducts the hearing contemplated by FAR 3.705(c)(3).

(3) In case of a dispute of material fact about the agency decision, the official refers the matter to the fact-finding official designated by the Chairman of the GSA Board of Contract Appeals. The voiding and rescinding official makes this referral if the dispute of fact relates to any of the following:

(i) Contracts affected by the final conviction.

(ii) Amounts expended and property transferred by the Government under the affected contracts.

(iii) Identity and value of any tangible benefits received by the Government under the affected contracts.

(4) The voiding and rescinding official issues GSA's final decision under FAR 3.705(e) after receiving the fact-finding official's report, if a referral was made. The voiding and rescinding official may reject the fact-finding official's findings only if they are clearly erroneous or arbitrary and capricious.

(5) The official coordinates the final decision was the contracting activity and provides the activity a copy of the decision.

(c) *Fact-finding official's actions:* The fact-finding official takes all the following actions:

(1) Gives the contractor an opportunity to dispute material facts.

(2) Conducts the proceedings under rules consistent with FAR 3.705(c)(3).

(3) Schedules a hearing within 20 calendar days after receiving the referral. The official may grant extensions for good cause at the request of the contractor or GSA.

(4) Delivers written findings of fact to the voiding and rescinding official (together with a transcription of the proceeding, if made) within 20 calendar days after the hearing record closes. The findings must resolve any material disputes of fact by a preponderance of the evidence.

PART 504—ADMINISTRATIVE MATTERS

Subpart 504.4—Safeguarding Classified Information Within Industry

Sec.
504.402 General
504.475 Return of classified information

Subpart 504.5—Electronic Commerce in Contracting

504.500 Scope of subpart
504.502 Policy
504.570 Procedures for using the EPS

Authority: 40 U.S.C. 486(c).

Subpart 504.4—Safeguarding Classified Information Within Industry

504.402 General.

(a) This subpart:

(1) Prescribes procedures for safeguarding classified information required to be disclosed to contractors in connection with the solicitation of offers, and the award, performance, and termination of contracts.

(2) Implements the requirements of the Department of Defense's Industrial Security Regulation (ISR) and Industrial Security Manual for Safeguarding Classified Information (ISM). By agreement, the Department of Defense (DOD) will act for, and on behalf of, GSA in rendering security services required for safeguarding classified information released by GSA to U.S. industry.

(b) As used in this subpart, the term:

(1) ''Contractor(s)'' means prospective contractors, subcontractors, vendors, and suppliers.

(2) ''U.S. industry'' means those industries (including educational and research institutions) located within the United States, its possessions, and the Commonwealth of Puerto Rico.

504.475 Return of classified information.

(a) You must recover classified information unless it has been destroyed as provided in paragraph 19 of the ISM. The Government agency that provided classified information to a GSA contractor is responsible for the return of the information.

(b) You must ensure that classified information furnished to prospective offerors, offerors, or contractors is returned immediately after any of the following:

(1) After bid opening or closing date for receipt of proposals by non-responding offerors.

(2) After contract award by unsuccessful offerors.

(3) Upon termination or completion of the contract.

(4) Upon notification that authorization to release classified information has been withdrawn.

(5) After notification that a facility:

(i) Does not have adequate means to safeguard classified information.

(ii) Has had its security clearance revoked or inactivated.

(6) Whenever otherwise instructed by the authority responsible for the security classification.

Subpart 504.5—Electronic Commerce in Contracting

504.500 Scope of subpart.

This subpart provides policy and procedure for use of GSA's Electronic Posting System (EPS).

504.502 Policy.

(a) The EPS is GSA's primary vehicle for disseminating synopses and written solicitations. GSA intends that the EPS will substitute for, not supplement, paper copies of solicitations. (Note that FAR 2.101 defines ''in writing'' or ''written'' to include ''electronically transmitted and stored information.'')

(b) This policy does not apply to orders placed against existing contracts, including Federal Supply Service schedule contracts.

(c) Nothing in this policy limits your authority to obtain oral quotations or proposals as authorized by regulation (e.g., FAR 13.106–1 or FAR 15.203(f)).

504.570 Procedures for using the EPS.

(a) You must use the EPS to issue any synopsis required by FAR part 5 or GSAR part 505.

(b) You must issue each written solicitation on the EPS, except as provided in paragraphs (c)(2) and (d) of this section.

(c) Although GSA intends that the EPS will substitute for paper copies of solicitations, web-based transactions are not practical in some industries or in some geographic areas at this time.

(1) If you expect that electronic access to a solicitation will result in adequate competition, distribute the solicitation only through the EPS. Include the following notice in the related synopsis:

> GSA is issuing this solicitation only electronically. Interested parties may access the solicitation at *http://www.eps.gov*. This site provides instructions for downloading the solicitation file.

(2) If you believe that distribution of paper copies is necessary to ensure adequate competition, document the file to justify distribution of paper copies. Include the notice in paragraph (c)(1) of this section in the related synopsis, leaving out the first sentence.

(d) In some cases, release of construction drawings must be controlled to ensure adequate security. In other cases, an exhibit or attachment incorporated in a solicitation may not be available electronically. In either of these cases, you must explain in both the synopsis and the solicitation how interested parties may obtain a copy. In addition to the notice required by paragraph (c), include a notice substantially the same as follows in both the synopsis and solicitation. Tailor the notice as necessary for the particular acquisition.

> This solicitation incorporates documents which are not available electronically. See [Identify the solicitation section that lists the subject documents]. Interested parties may request copies of these documents by writing the Contracting Officer at the address in [Identify address block in the solicitation].

(e) The Electronic Posting System Manual provides detailed instructions for using the EPS. The Manual is available at *http://www.eps.gov/buyer.html*.

SUBCHAPTER B—COMPETITION AND ACQUISITION PLANNING

PART 505—PUBLICIZING CONTRACT ACTIONS

Subpart 501.1—Dissemination of Information

Sec.
505.101 Methods of disseminating information

Subpart 505.2—Synopses of Proposed Contract Actions

505.202 Exceptions
505.203 Publicizing and response time
501.270 Synopsis of amendments to solicitations

Subpart 505.5—Paid Advertisements

505.502 Authority

Authority: 40 U.S.C. 486(c).

Subpart 505.1—Dissemination of Information

505.101 Methods of disseminating information.

(a) In Regions with a Business Service Center (BSC), you may post the notice required by FAR 5.101(a)(2) at the BSC.

(b) Use GSA's Electronic Posting System (EPS) to issue each synopsis required by FAR part 5 or GSAR part 505. When synopsizing a solicitation, include the appropriate notice(s) required by 504.570(c) and (d).

(c) For acquisitions involving real property:

If the acquisition is not exempt under FAR 5.202 or GSAR 505.202, and—	Then you must publicize the proposed acquisition—
(1) The acquisition is for real property appraisal services estimated to cost $25,000 or more	(1) Either: (i) In local newspapers. (ii) In the Commerce Business Daily through the EPS.

If the acquisition is not exempt under FAR 5.202 or GSAR 505.202, and—	Then you must publicize the proposed acquisition—
(2) The acquisition is for leasehold interests in real property estimated to exceed 10,000 square feet (except lease construction on a preselected site).	(2) Either: (i) In local newspapers. (ii) In the Commerce Business Daily through the EPS.
(3) The acquisition is for a leasehold interest in a building to be constructed on a preselected site.	(3) In the Commerce Business Daily through the EPS.

(d) You may publicize proposed leases of 10,000 square feet or less in local newspapers if it will serve to promote competition.

Subpart 505.2—Synopses of Proposed Contract Actions

505.202 Exceptions.

The Administrator has determined under section 18(c)(3) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 416(c)(3)) and Section 8(g)(3) of the Small Business Act, as amended (15 U.S.C. 644(g)(3)) that:

(a) Synopsizing in the CBD is not always appropriate for acquisitions of leasehold interests in real property (except lease construction on a designated site) or real property appraisal services.Your may publicize such contract actions following the procedures in 505.101 and 505.203.

(b) It is not appropriate or reasonable to publish an advance notice of any of the following:

(1) Acquisitions of works of art, including the design, execution and installation of the artwork, under the Art-in-Architecture Program.

(2) Supplemental agreements to leases of real property involving any of the following:

(i) Expansion requests within the scope of a lease (see 570.403).

(ii) Lease extensions under the conditions defined in 570.405.

(iii) Building alterations within the scope of a lease (see 570.5).

505.203 Publicizing and response time.

(a) If you publicize in local newspapers under 505.101(c), ensure that the notice appears in local newspapers at least 3 calendar days before issuance of the solicitation. Except as provided in paragraph (B) of this section, allow at least these minimum response times:

(1) For leasehold interests in real property, 20 calendar days between solicitation issuance and the date established for receipt of initial offers.

(2) For real property appraisal services valued at less than either the Trade Agreements Act (TAA) threshold or the North American Free Trade Agreement (NAFTA) threshold, 10 calendar days between solicitation issuance and the date established for receipt of initial offers. The lower of the two thresholds governs.

(3) For real property appraisal services valued at or over the TAA threshold or the NAFTA threshold, 40 calendar days from when the notice appears to receipt of initial offers. If the acquisition falls in a general category identified in an annual forecast, the period may be reduced to as few as 10 days. The lower of the two thresholds governs.

(b) The following exceptions to the publicizing and response times in paragraph (a) of this section apply only to proposed acquisitions of leasehold interests in real property:

(1) For a proposed acquisition conducted using simplified lease acquisition procedures (see 570.2), consider the individual acquisition and establish a reasonable response time.

(2) In cases of urgency, provide as much time as possible and document the file.

505.270 Synopsis of amendments to solicitations.

Synopsize in the CBD any solicitation amendment when the amendment either:

(a) Increases the anticipated value of the proposed acquisition above the dollar threshold requiring synopsis.

(b) Alters the scope of the proposed acquisition so that increased interest of contractors can be reasonably anticipated.

Subpart 505.5—Paid Advertisements

505.502 Authority.

(a) *Newspapers.* The HCA, or designee, must approve publication of paid newspaper advertisements. Approval is not required if FAR 5.101 or 505.101 requires publication. Document the contract file with the regulatory citation or written approval to support the use of paid newspaper advertisements.

(b) *Other media.* Advance approval is not required to advertise in other media.

PART 509—Contractor Qualifications

Subpart 509.1—Responsible Prospective Contractors

Sec.
509.105 Procedures
509.105–1 Obtaining information
509.105–2 Determinations and documentation
509.106 Preaward surveys
509.106–2 Requests for preaward surveys

Subpart 509.2—Qualifications Requirements

509.206 Acquisitions subject to qualification requirements
509.206–2 Contract clause

Subpart 509.3—First Article Testing and Approval

509.306 Solicitation requirements
509.308 Contract clauses
509.308–1 Testing performed by the contractor
509.308–2 Testing performed by the Government

Subpart 509.4—Debarment, Suspension, and Ineligibility

509.401 Applicability
509.403 Definitions
509.405 Effect of listing
509.405–1 Continuation of current contracts
509.405–2 Restrictions on subcontracting
509.406 Debarment
509.406–1 General
509.406–3 Procedures
509.407 Suspension
509.407–1 General
509.407–3 Procedures

Authority: 40 U.S.C. 486(c).

Subpart 509.1—Responsible Prospective Contractors

509.105 Procedures.

509.105–1 Obtaining information.

(a) *From a prospective contractor.* In making a determination of responsibility, you may use the GSA Form 527, Contractor's Qualification and Financial Information, to obtain information regarding financial capability from a prospective contractor.

(b) *From Government personnel.* Solicit and consider information from all appropriate activities, including legal counsel, quality control, contract management, credit and finance, and the auditor before determining that an offeror is responsible. ''Auditor'' is either:

(1) The Assistant Inspector General for Auditing (Central Office only).

(2) The Regional Inspector General for Auditing.

(3) Chief, Credit and Finance Section, the Heartland Region (for an evaluation of a prospective contractor's financial competence and credit).

509.105–2 Determinations and documentation.

(a) Provide written notification to a prospective contractor you determine not responsible. Include the basis for the determination. Notification provides the prospective contractor with the opportunity to correct any problem for future solicitation.

(b) Due to the potential for de facto debarment, avoid making repeated determinations of nonresponsiblity based on the same past performance information.

(c) To provide for timely consideration of the need to institute action to debar a contractor, submit a copy of each nonresponsibility determination, other than those based on capacity or financial capability, to the debarring official.

509.106 Preaward surveys.

509.106–2 Requests for preaward surveys.

Federal Supply Service (FSS). Contracting activities in FSS may use GSA Form 353, Performance Evaluation & Facilities Report, in lieu of SF 1403 through 1406. Complete Section I in accordance with instructions in 553.370–353–I.

Subpart 509.2—Qualifications Requirements

509.206 Acquisitions subject to qualification requirements.

509.206–2 Contract clause.

Insert 552.209–70, Product Removal from Qualified Products List, in solicitations and contracts containing FAR 52.209–1, Qualification Requirements.

Subpart 509.3—First Article Testing and Approval

509.306 Solicitation requirements.

(a) The clauses at FAR 52.209–3 and 52.209–4 do not cover all the solicitation requirements described in FAR 9.306. If a solicitation contains a testing and approval requirement, you must address the requirements in FAR 9.306 (d), (f), (g), (h), (i), and (j). For FSS, the clauses prescribed in 509.308 address the requirement in FAR 9.306(h).

(b) In FSS solicitations that contain FAR 52.209–3, First Article Approval—Contractor Testing, or FAR 52.209–4, First Article Approval—Government Testing, insert 552.209–71, Waiver of First Article Testing and Approval Requirement.

509.308 Contract clauses.

509.308–1 Testing performed by the contractor.

In FSS solicitations and contracts that will require the contractor to perform testing, insert 552.209–72, Supplemental Requirements for First Article Approval—Contractor Testing, and FAR 52.209–3, Alternate I.

509.308–2 Testing performed by the Government.

In FSS solicitations and contracts that will have the Government responsible for first article testing, insert 552.209.73, Supplemental Requirements for First Article Approval—Government Testing, and FAR 52.209–4, Alternate I.

Subpart 509.4—Debarment, Suspension, and Ineligibility

509.401 Applicability.

This subpart applies to all the following:

(a) Acquisitions of personal property, nonpersonal services (including construction), space in buildings, transportation services (Federal Property Management Regulations (FPMR) Subpart 101–40.4).

(b) The purchase, sale, and disposal of real property.

(c) Contracts for disposal of personal property (FPMR Subpart 101–45.6).

(d) Covered transactions as defined at General Services Property Management Regulations (GSPMR) 105–68.110(a).

509.403 Definitions.

Fact-finding official, means the Chairman of the Debarment and Suspension Board within the GSA Board of Contract Appeals or a designee.

Notice means a letter sent by certified mail, return receipt requested, to the last known address of a party, its counsel, or agent for service of process. In the case of a business, such notice may be sent to any partner, principal officer, director, owner or co-owner, or joint venturer. If no return receipt is received within 10 calendar days of mailing, receipt will then be presumed.

509.405 Effect of listing.

509.405–1 Continuation of current contracts.

(a) Consider terminating a current contract under any of the following circumstances:

(1) Any of the circumstances giving rise to the debarment or suspension also constitute a default in the contractor's performance of the contract.

(2) The contractor presents a significant risk to the Government in completing the contract.

(3) The conduct that provides the cause of the suspension, proposed debarment, or debarment involved a GSA contract.

(b) Determine which of the following is in the Government's best interest:

(1) Terminate the contract for either convenience or cause.

(2) Cancel under appropriate contract clauses (e.g., 552.238–73, Cancellation).

(3) Use other available alternatives under:

(i) FAR 3.2 and 503.2.

(ii) FAR 3.7 and 503.7.

(c) Before making a decision, consult with legal counsel and consider these factors:

(1) Seriousness of the cause for debarment or suspension.

(2) Extent of contract performance.

(3) Potential costs of termination and reprocurement.

(4) Need for or urgency of the requirement, contract coverage, and the impact of delay for reprocurement.

(5) Availability of other safeguards to protect the Government's interest until completion of the contract.

(6) Availability of alternate competitive sources to meet the requirement (e.g., other multiple award contracts, readily available commercial items, etc.).

(d) The debarring official is the designee under FAR 9.405–1(c).

509.405–2 Restrictions on subcontracting.

The debarring official is the designee under FAR 9.405–2(a).

509.406 Debarment.

509.406–1 General.

The debarring official is the designee under FAR 9.406–1(c).

509.406–3 Procedures.

(a) *Investigation and referral.*

(1) Refer to the debarring official matters involving serious contract improprieties or performance deficiencies. Performance deficiencies that continue over a period of time or apply to more than one contract may warrant debarment consideration.

(2) Refer possible criminal or fraudulent activities to the Office of the Inspector General (OIG). See 5 CFR 6701.107, Reporting Waste, Fraud, Abuse, and Corruption. If, after investigation, the OIG believes a cause for debarment exists, it will refer the matter to the debarring official for consideration of debarment action.

(b) *Reports.* Include in referrals to the debarring official a report that contains at least the following:

(1) The recommendation and supporting rationale.

(2) A list of parties to be considered for possible debarment, including the contractor, principals, and affiliates. Include last known home and business addresses, zip codes, and DUNS Number.

(3) A statement of facts.

(4) Copies of documentary evidence and a list of witnesses. Include addresses and telephone numbers. Determine their availability to appear at a fact-finding proceeding and identify the subject matter of their testimony.

(5) GSA's acquisition history with the contractor. Include recent experience, copies of the pertinent contracts, and an explanation of impact debarment would have on GSA programs. OIG referrals do not require this explanation; the debarring official will obtain the information directly from the contracting activity(s).

(6) A list of any known active or potential criminal investigations, criminal or civil proceedings, or administrative claims before the Board of Contract Appeals.

(7) A statement regarding the impact of the debarment action on GSA programs. This statement is not required for referrals by the Inspector General; the debarring official will obtain a statement directly from the contracting activity(s).

(c) *Review.* The debarring official will review the report, and after coordinating with assigned legal counsel, either:

(1) Initiate debarment action.

(2) Decline debarment action.

(3) Request additional information.

(4) Refer the matter to the OIG for further investigation and development of a case file.

(d) *Decisionmaking process.*

(1) The debarring official will provide:

(i) Notice of declinations, proposed debarments, and decisions to the referring activity.

(ii) Notice of proposed debarment to each party being considered for debarment.

(iii) Decision notices to each party after considering information in the administrative record and information and argument submitted by the affected party or parties.

(2) A party proposed for debarment:

(i) Has 30 calendar days after receipt of the notice to respond to the debarring official or the debarment becomes final.

(ii) May request and receive a copy of the administrative record that was the basis for the proposed debarment. If information is withheld, the party will be notified and provided the reason.

(iii) May request the opportunity to present information and argument in person to the debarring official. The debarring official will schedule an oral presentation within 20 calendar days of receipt of the request, unless a longer period of time is requested by the party. An oral presentation is informal and a transcript usually is not made. The party may supplement the oral presentation with written information and arguments.

(iv) May identify to the debarring official material facts in dispute and the bases. For an action other than one based on a conviction of civil judgment, a party may request review and a written finding by a fact-finding official.

(3) The debarring official will determine whether there is a genuine dispute of material fact. If so, the debarring official refers the matter to a fact-finding official, who will take the following action as appropriate:

(i) Schedule a hearing within 20 calendar days after receipt of a request to resolve disputed facts.

(ii) Grant extensions for good cause.

(iii) Provide notice of scheduled hearing.

(iv) Conduct hearings under rules consistent with FAR 9.406–3(b)(2).

(v)Resolve facts in dispute and provide the debarring official with written findings of fact based on a preponderance of the evidence. The fact-finding official provides the written findings of fact (together with a transcription of the proceeding, unless waived) within 20 calendar days after the hearing record closes.

509.407 Suspension.

§ 509.407–1 General.

The suspending official is the designee under FAR 9.407–1(d).

§ 509.407–3 Procedures.

(a) *General.* The procedures in 509.406–3 apply to suspension actions except as noted in paragraph (b) of this section.

(b) *Fact-finding.*

(1) Fact-finding will not be conducted in an action:

(i) Based on an indictment.

(ii) When the suspending official finds no genuine dispute of material facts.

(2) If the action is not based on an indictment, the suspending official must coordinate with the Department of Justice or state prosecutorial authority through OIG. Based on the advice received, the suspending official will determine if fact-finding would impair substantial interests of the Federal or state Government. In an action not based on an indictment, a suspended party may:

(i) Identify to the suspending official material facts in dispute and the bases.

(ii) Request review and a written finding by a fact-finding official to resolve genuine disputes of material fact. For procedures involving a genuine dispute of material fact, see 509.406–3(d)(3).

PART 511—DESCRIBING AGENCY NEEDS

Subpart 511.1—Selecting and Developing Requirements Documents

Sec.
511.170 Use of brand name or equal product descriptions
511.170–3 Solicitation provisions

Subpart 511.2—Using and Maintaining Requirements Documents

511.204 Solicitation provisions and contract clauses

Subpart 511.4—Delivery or Performance Schedules

511.404 Contract clauses

Authority: 40 U.S.C. 486(c).

Subpart 511.1—Selecting and Developing Requirements Documents

511.170 Use of brand name or equal product descriptions.

511.170–3 Solicitation provisions.

(a) Include the following immediately after each brand name or equal item description, with instructions for the offeror to complete the information:

Offering on:

Manufacturer's Name _____

Brand _____

Model or Part No. _____

(b) If the solicitation does not require samples for ''or equal'' offers, include the following notice in the list of brand name or equal items or component parts:

Notice

If you offer other than brand name items identified in this solicitation, you must provide adequate information for GSA to determine the quality of the product(s) offered.

(c) Include a provision substantially the same as the one at 552.211–70, Brand Name or Equal, when you use a brand name or equal purchase description.

(d) If you use brand name or equal descriptions for component parts of an end item and the provision at 552.211–70 is impractical for some or all of the components, you may either:

(1) Not use the provision.

(2) Limit its application to specified components.

Subpart 511.2—Using and Maintaining Requirements Documents

511.204 Solicitation provisions and contract clauses.

(a) *Construction services.* Insert the clause at 552.211–71, Standard References, in solicitations and contracts for construction services when you expect the contract amount to exceed the simplified acquisition threshold, and the solicitation meets either of the following conditions:

(1) The solicitation cites documents or publications not furnished with the solicitation.

(2) The solicitation incorporates documents or publications by reference.

(b) *Federal specifications.* Insert the clause at 552.211–72, Reference to Specifications in Drawings, in solicitations and contracts citing Federal specifications which contain drawings.

(c) *Supply contracts that exceed the simplified acquisition threshold.*

(1) Include the clause at 552.211–73, Marking, in solicitations and contracts for supplies when deliveries may be made to both civilian and military activities and the contract amount is expected to exceed the simplified acquisition threshold.

(2) Include the clause at 552.211–74, Charges for Marking, in solicitations and contracts that include the clause at 552.211–73 or a similar clause.

(3) Include the clause at 552.211–75, Preservation, Packaging and Packing, in solicitations and contracts for supplies expected to exceed the simplified acquisition threshold. You may also include the clause in contracts estimated to be at or below the simplified acquisition threshold when appropriate.

(4) Insert a clause substantially the same as the clause at 552.211–76, Charges for Packaging and Packing, in solicitations and contracts for supplies to be delivered to GSA distribution centers.

(d) *Supply contracts.* Include the clause at 552.211–77, Packing List, in solicitations and contracts for supplies, including purchases over the micropurchase threshold.

Subpart 511.4—Delivery or Performance Schedules

511.404 Contract clauses.

(a) *Supply contracts.*

(1) *Single award schedules.* Insert 552.211–8, Time of Delivery, in solicitations and contracts instead of the clause at FAR 52.211–8. If you need to show different delivery times for different items or groups of items, use Alternate I.

(2) *Multiple award schedules.* Insert 552.211–78, Commercial Delivery Schedule (Multiple Award Schedule), in solicitations issued and contracts awarded under the multiple award schedule program.

(3) *Shelf-life items.* Use the following clauses in solicitations and contracts that require delivery of shelf-life items within a specified number of months from the date of manufacture or production (see 101–27.206–2 of the Federal Property Management Regulation):

(i) Insert 552.211–79, Acceptable Age of Supplies, if the required shelf-life period is 12 months or less, and lengthy acceptance testing may be involved. For items having a limited shelf-life, substitute Alternate I when required by the director of the commodity center concerned.

(ii) Insert 552.211–80, Age on Delivery, if the required shelf-life period is more than 12 months, or when source inspection can be performed within a short time period.

(4) *Stock replenishment contracts.* Insert 552.211–81, Time of Shipment, in solicitations and stock replenishment contracts that do not include the Availability for Inspection, Testing and Shipment/Delivery clause at 552.211–83 and require shipment within 45 calendar days after receipt of the order. If shipment is required in more than 45 days, use Alternate I.

(5) *Notice of shipment.* Include 552.211–82, Notice of Shipment, in solicitation and contracts for supplies when you need to have a notice of shipment from the contractor.

(6) *Indeterminate testing time.* Insert 552.211–83, Availability for Inspection, Testing and Shipment/Delivery, in solicitations and contracts that provide for source inspection by Government personnel and that require lengthy testing for which time frames cannot be determined in advance. If the contract is for stock items, use Alternate I.

(b) *Construction contracts.* Insert the clause at 552.211–84, Non-Compliance with Contract Requirements, in solicitations and contracts for construction when you expect the contract amount to exceed the simplified acquisition threshold.

PART 512—ACQUISITION OF COMMERCIAL ITEMS

Subpart 512.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items

Sec.

512.301 Solicitation provisions and contract clauses for the acquisition of commercial items

Authority: 40 U.S.C. 486(c).

Subpart 512.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items

512.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(a) *Solicitation provisions and clauses.* Insert these provisions or clauses in solicitations or solicitations and contracts, respectively, in accordance with the instructions provided:

(1) 552.212–70, Preparation of Offer (Multiple Award Schedule), in solicitations and contracts issued under the multiple award schedule program.

(2) 552.213–71, Contract Terms and Conditions Applicable to GSA Acquisition of Commercial Items, when listed clauses apply. The clause provides for incorporation by reference of terms and conditions which are, to the maximum extent practicable, consistent with customary commercial practice. If necessary, tailor this clause.

(3) 552.212–72, Contract Terms and Conditions Required to Implement Statutes of Executive Orders Applicable to GSA Acquisitions of Commercial Items, when listed clauses apply.

(i) The clause provides for the incorporation by reference of terms and conditions required to implement provisions of law or executive orders that apply to commercial item acquisitions.

(ii) As a result of the General Services Administration Board of Contract Appeals (GSBCA) decision in the protest of *International Business Machines Corporation* GSBCA 90–2 BCA P22,924, May 18, 1990, GSA solicitations and contracts will deviate from FAR 52.225–8, Buy American Act-Trade Agreements-Balance of Payments Program Certificate. Incorporate 552.225–8, Buy American Act-Trade Agreements-Balance of Payments Program Certificate, and 552.225–9, Buy American Act-Trade Agreements-Balance of Payments Program, in solicitations and contracts subject to the Trade Agreement Act. Use them instead of FAR 52.225–8 and 52.225–9 (referenced in FAR 52.212–3 and 52.212–5 respectively).

(4) 552.213–73, Evaluation-Commercial Items (Multiple Award Schedule), in multiple award schedule solicitations. Use this provision instead of FAR 52.212–2.

(b) *Use of required provisions and clauses.* Use only those provisions and clauses prescribed in this part. Unless the use of a provision or clause prescribed elsewhere in the GSAR is consistent with customary commercial practice for the item being acquired, disregard contrary instructions. Provisions and clauses prescribed in this part will be revised to reflect the applicability of new statutes and executive orders.

(c) *Discretionary use of GSAR provisions and clauses.* Consistent with the limitations contained in FAR 12.302(c), include in solicitations and contracts by addendum other GSAR provisions and clauses.

(d) *Use of additional provisions and clauses.* The Senior Procurement Executive must approve the use of a provision or clause that is either not:

(1) Prescribed in the FAR or GSAR for use in contracts for commercial items.

(2) Consistent with customary commercial practice.

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

PART 513—SIMPLIFIED ACQUISITION PROCEDURES

Subpart 513.3—Simplified Acquisition Methods

Sec.
513.302 Purchase orders.
513.302–70 Purchase orders and related forms.
513.303 Blanket purchase agreements (BPAs).
513.303–3 Preparation of BPAs.
513.307 Forms.

Authority: 40 U.S.C. 486(c).

Subpart 513.3—Simplified Acquisition Methods

513.302 Purchase orders.

513.302–70 Purchase order and related forms.

(a) See GSA Order, Interim Guidance on Use of the Governmentwide Commercial Purchase Card Service (OAD 4200.8), for forms required for purchase card actions.

(b) Use GSA Form 3000 or 300–1 (pin-feed format), Order for Supplies and Services, instead of OF 347, Order for Supplies or Services, when making purchases payable through the National Electronic Accounting and Reporting (NEAR) System.

(1) This form may also be used to make other purchases when a specific form is not prescribed. It may be used as a delivery or task order instead of SF 1449, Solicitation/Contract/Order for Commercial Items.

(2) Prepare and process GSA Form 300 following the instructions at 553.370–300–I. Use GSA Form 300A or 300–A(1) (pin-feed format), order for Supplies or Services (continuation), if additional space is needed.

(c) Use GSA Form 1458, Motor Vehicle Shop Work Order, Repair and Purchase Order, instead of the OF 347 when making purchases in connection with the maintenance, servicing or repair of GSA fleet management vehicles.

(d) Use GSA Form 3186, Order for Supplies or Services or GSA Form 3186–B, Order for Supplies or Services (EDI), instead of OF 347, Order for Supplies or Services, when making simplified acquisitions or placing orders against established contracts through the FSS–19 system.

(1) Use GSA Form 3186 for mail orders placed against established contracts.

(2) Document the file for a delivery, task, or purchase order transmitted to contractors electronically using Electronic Data Interchange (EDI) procedures by generating a GSA Form 3186–B.

(e) Use GSA Form 8002B, Motor Vehicle Delivery Order, to order fleet management vehicles. Do not use this form as a purchase order for simplified acquisitions. Use GSA Form 8002A to notify the consignee of the status of motor vehicle requisitions.

513.303 Blanket purchase agreements (BPAs).

513.303–3 Preparation of BPAs.

(a) *Description of agreement.* Describe limitations, if any, on the geographic area to be served.

(b) *Delivery tickets.* Instruct the contractor to include the name of the individual placing the order on the delivery ticket. The individual receiving the item or service must sign and date the delivery or service ticket. Both the supplier and the receiving office must retain a copy of the delivery ticket.

513.307 Forms.

You may use the GSA Form 3521, Blanket Purchase Agreement, to prepare a blanket purchase agreement.

PART 514—SEALED BIDDING

Subpart 514.2—Solicitation of Bids

Sec.
514.201 Preparation of invitations for bids.
514.201–1 Uniform contract format.
514.201–2 Part I—The Schedule.
514.201–6 Solicitation provisions.
514.201–7 Contract clauses.
514.202 General rules for solicitation of bids.
514.202–4 Bid samples.
514.203 Methods of soliciting bids.
514.203–1 Transmittal to prospective bidders.
514.270 Aggregate awards.
514.270–1 Definition.
514.270–2 Guidelines for use.
514.270–3 Evaluation factors for award.
514.270–4 Grouping line items for aggregate award.
514.270–5 Evaluation methodologies for aggregate awards.
514.270–6 Guidelines for using the weight factors method.
514.270–7 Guidelines for using the price list method.

Subpart 514.4—Opening of Bids and Award of Contract

514.407 Mistakes in bids.
514.407–3 Other mistakes disclosed before award.
514.407–4 Mistakes after award.

Authority: 40 U.S.C. 486(c).

Subpart 514.2—Solicitation of Bids

514.201 Preparation of invitations for bids.

514.201–1 Uniform contract format.

Include the following notice in each solicitation:

The information collection requirements contained in this solicitation/contract, are either required by regulation or approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act and assigned OMB Control No. 3090–0162.

514.201–2 Part I—The Schedule.

(a) When you use Standard Form 33, Solicitation, Offer and Award, include the following cautionary notice:

Notice to Bidders—Use Item 13 of the Standard Form 33, Solicitation, Offer and Award, to offer prompt payment discounts. The Prompt Payment clause of this solicitation sets forth payment terms. Do not insert any statement in Item 13 which requires payment sooner than the time stipulated in the Prompt Payment clause. *Example:* If you insert ''NET 20'' in Item 13, GSA will reject your offer as nonresponsive because the entry contradicts the 30 day payment terms specified in the Prompt Payment clause.

(b) When you use any other authorized form (e.g., Standard Form 1447, Solicitation/Contract), include the notice in paragraph (a) of this section. Change the reference to the form number, form title, and item number accordingly.

§ 514.201–6 Solicitation provisions.

When you will consider all or none bids, insert the provision at 552.214–70, ''All or None'' Offers, in the solicitation. For requirements or indefinite quantity

contracts, use Alternate I. Do not include this provision in solicitations when you require the bidder to submit bids on all items and will make only one award.

514.201–7 Contract clauses.

(a) *Stock replenishment contracts.* For some stock replenishment contracts, individual contractors may be unable to furnish the Government's monthly requirements. You may determine that progressive awards will be more expedient. In such cases, insert a clause substantially the same as the clause 552.214–71, Progressive Awards and Monthly Quantity Allocations, in the solicitation and contract.

(b) *Examinations of Records.*

(1) Insert 552.214–70, Examination of Records by GSA, in solicitations and contracts for supplies or services that exceed $100,000, and acquisitions of leasehold interests in real property that exceed the simplified lease acquisition threshold, that meet at least one of the following conditions:

(i) Involve the use or disposition of Government-furnished property.

(ii) Provide for advance payments, progress payments based on cost, or guaranteed loan.

(iii) Contain a price warranty or price reduction clause.

(iv) Include an economic price adjustment clause where the adjustment is not based solely on an established, third party index.

(v) Are requirements, indefinite-quantity, or letter contracts as defined in FAR part 16.

(vi) Contain the provision at FAR 52.223–4, Recovered Materials Certification.

(2) You may modify the clause to define the specific area of audit (e.g., the use or disposition of Government-furnished property). Legal Counsel and the Assistant Inspector General—Auditing or Regional Inspector General—Auditing, as appropriate, must concur in any modifications to the clause.

514.202 General rules for solicitation of bids.

514.202–4 Bid samples.

(a) *Solicitation requirements.*

(1) When you require bid samples, require bidders to submit samples produced by the manufacturer whose products will be supplied under the contract.

(2) The FAR limits use of bid samples to cases where you cannot describe some characteristics of a product adequately in the specification or purchase description. This usually applies to subjective characteristics. You may determine that you need to examine objective characteristics of bid samples to determine the responsiveness of a bid. Base your determination on past experience or other valid considerations. In the solicitation, separately list ''Subjective Characteristics'' and ''Objective Characteristics.''

(3) A sample provision appears at 552.214–72, Bid Sample Requirements. You may use this provision as shown or modify it to fit the circumstances of a procurement.

(b) *Handling and disposition of samples.*

(1) Retain samples from accepted bids for the period of contract performance. If you have no outstanding claims regarding the contract, dispose of the samples at the end of the contract term following the bidder's instructions.

(2) If you anticipate a claim regarding the contract, retain the bid samples until the claim is resolved.

(3) Retain samples from unsuccessful bids until you make award. After award, dispose of these samples following the bidder's instructions.

(c) *Using bid samples.* Include the information required by FAR 14.202–4(e) in the solicitation. Provide the number, size, and full description of samples with instructions on how to submit bids. List the characteristics that you will examine. The list needs to include any aspect of the bid sample the acquisition team will examine to determine the product(s) acceptability.

514.203 Methods of soliciting bids.

514.203–1 Transmittal to prospective bidders.

Prospective bidders, as used in FAR 14.203–1, include both the following:

(a) The incumbent contractor, except when its written response to the notice of contract action under FAR subpart 5.2 states a negative interest.

(b) Bidders that responded to recent solicitations for the same or similar items.

514.270 Aggregate awards.

514.270–1 Definition.

Aggregate award means an arrangement whereby two or more separately-priced line items are combined for award to that bidder whose bid will result in the lowest overall cost to the Government for the line items as a group. The individual price for each item does not have to be the lowest bid received. (See also the definition of a ''line item'' in FAR 3.302.)

514.270–2 Guidelines for use.

(a) GSA usually solicits prices and reserves the right to make award for individual line items. In some cases it serves GSA's best interest to combine two or more line items for an aggregate award. Such cases include when:

(1) Users desire uniformity of design, style, and finish (e.g., suites of household furniture).

(2) The articles will be assembled and used as a unit, and different manufacturers' components may not be interchangeable.

(3) Users have high demand for certain articles, but demand for related articles is insufficient to attract competitive bids (e.g., various sized of socket wrenches). Awarding the low-demand articles in conjunction with the high-demand articles may encourage competition.

(4) One location (delivery point) has a large requirement, and another location has a requirement too small to individually attract competitive bids.

(5) Awarding and administering numerous small contracts for similar articles or services is impractical.

(b) Before deciding to combine items for aggregate award, consider the following factors:

(1) The capability of bidders to furnish the types and quantities of supplies or services in the aggregate.

(2) How grouping delivery points will affect bidders.

(3) Which combinations will accurately project the lowest overall cost to the Government.

(c) Do not use an aggregate award if it will significantly restrict the number of eligible bidders.

514.270–3 Evaluation factors for award.

Clearly state in the solicitation the basis for evaluating bids for aggregate award. Require bidders to submit a price on each item within the group or a percentage to be added or subtracted from a list price. Advise bidders that failure to submit prices as required within a group makes a bid ineligible for award for that group.

514.270–4 Grouping line items for aggregate award.

(a) *Type of contract.* While this section addresses supply contracts (articles and delivery points), the same principles apply to service contracts (types of services and service areas).

(b) *Effect on compeition.* Provide for full and open competition when you group items for award. Grouping items for award may preclude a significant of firms from bidding. This occurs if firms are unable to provide all the types or quanities of supplies or services, or

make deliveries to the various delivery points included in the prospective aggregate group.

(c) *Grouping different articles.* Include only related articles in an aggregate group. Related articles are those normally manufactured or produced by a majority of prospective bidders. Grouping unrelated articles often restricts competition unnecessarily.

(d) *Grouping geographic locations or delivery points.* Consider the following guidelines before deciding to group different geographic locations or delivery points:

(1) A delivery point may have sufficient requirements so that individual shipments involve economic production runs and carload or truckload quanities. In this case, list it as a separate line item.

(2) The types of bidders (i.e., small or large firms, manufacturers or distributors, etc.) who respond to previous solicitations can provide important information. For example, if previous bidders are distributors with franchises in certain territories, grouping different territories could tend to restrict competition.

(3) Transportation costs can affect competition and pricing. They may constitute a significant portion of the total delivered cost. Obtain the advice and assistance of transportation specialists before grouping geographic locations or delivery points. Depending upon the supplies being acquired:

(i) Grouping widespread geographic locations or delivery points may reduce competition or result in higher prices. It can cause you to lose ''area pricing'' advantages provided by a supplier with a single production point.

(ii) Conversely, for many small commercial items (hand tools, locks, etc.), manufacturers may quote the same price for delivery anywhere in the U.S..

(iii) Tariff boundaries can also affect how manufacturers price deliveries to different areas.

514.270–5 Evaluation methodologies for aggregate awards.

(a) *Definite quantity contracts without options.* For definite quantity contracts without options, the evaluated bid price is the total bid price, as adjusted for any price-related factors identified in the solicitation. This reflects the actual cost to the Government and will identify the most advantageous bid.

(b) *Indefinite quantity contracts, requirements contracts, and options.* Indefinite quantity and requirements contracts use estimated quantities. Options involve the probability of whether and when the options will be exercised. These situations may result in unbalanced bids (see FAR 15.404–1(g)), leading to inaccurate evaluation of the projected cost and award to other than the most advantageous bid. To avoid unbalanced bids, GSA has two preferred methods for evaluating bids for aggregate awards: weight factors and price list.

(1) *Weight factors method.* Assign a weight to each item in a group. The weight is based on the portion of quantities that item represents. To evaluate bids, multiply each unit price by its weight factor, then total the results.

(2) *Price list method.* Establish prices for bidders to use as a base for preparing their bids. Prepare a list that identifies a base price for each item in a group. Bidders bid a percentage factor to add to or subtract from the base price.

514.270–6 Guidelines for using the weight factors method.

(a) Use the weight factors method when you have reliable estimates for the quantities needed in an acquisition. Reliable estimates of quantities form the foundation for:

(1) Accurate evaluation of the projected cost of each bid.

(2) An appropriate determination of which bid is most advantageous to the Government for the aggregate group.

(b) Assign a weight factor to each item in a group. Develop the weight factor by calculating the portion of the total quantity in a defined group that each item represents.

(c) To evaluate bid prices, first multiply the price bid for each item (unit price X quantity) by its weight factor. Then, add the subtotals together to project the cost for the aggregate group.

(d) You may reduce estimated quantities to smaller numbers by a common denominator. This may help facilitate the computations involved in evaluating bids.

(e) Consider all price-related factors you identified in the solicitation. Award to the responsive and responsible bidder with the lowest evaluated overall cost to the Government for the aggregate group. This represents the most advantageous bid.

514.270–7 Guidelines for using the price list method.

(a) *General.* The price list method helps avoid unbalanced bidding when you need to make aggregate awards, but lack accurate estimates of anticipated quantities. This method establishes base prices for bidders to use in preparing their bids.

(b) *Solicitation requirements.* When you use the price list methods, in the solicitation:

(1) Include the price list.

(2) Include an estimate of requirements.

(3) Require the bidder to express its price as ''net'' or as a percentage added to or subtracted from the list prices for each group. Require the bidder to quote only one percentage factor for each group. This means that the bidder provides one percentage factor that applies to every item in a group; not a separate percentage for each item. ''Net'' indicates the bidder chooses to submit the list prices as its bid.

(4) Identify the percentage factor in paragraph (b)(3) of this section as a price related evaluation factor.

(c) *Developing list prices.* You may develop price lists using one or more of the following sources:

(1) Industry published prices.

(2) Industry surveys.

(3) Government cost estimates based on knowledge of the supplies or services and previous contract prices.

(d) *First time use for an item or service.* The first time you use list prices for an item or service, give prospective bidders an opportunity to review the proposed list. Also provide information on how GSA will use the list prices. You may provide this information in a draft solicitation.

(e) *Balanced prices.* Ensure that the list prices for the grouped items bear a reasonable and balanced relationship to one another. You may use prices from previous awards made using the weight factors method to develop price lists. Review those prices first to ensure they did not result from unbalanced bidding.

(f) *Evaluation and award.* Consider all price-related factors identified in the solicitation. Award to the responsive and responsible bidder whose percentage factor produces the most favorable price to the Government. This represents the most advantageous bid.

(g) *Example.* The following illustrates a bidding schedule arrangement for a group of items for aggregate award under the price list method:

DRILLS, TWIST, HIGH SPEED, UNDER FEDERAL SPECIFICATION (NO. AND DATE), AND AMENDMENT (NO. AND DATE), AMENDMENT (NO. AND DATE) WIRE GAUGE SIZES, STRAIGHT SHANK, SHORT LENGTH, TYPE C

Item No.	National Stock No.	Drill size	Est. quantity	Unit	List price
Group 1 (Items 1 through 5)					
1	5133–00–189–9246	1	2,800	Pkg	$11.16
2	5133–00–189–9247	2	2,400	Pkg	11.16
3	5133–00–189–9248	3	2,800	Pkg	10.44
4	5133–00–189–9249	4	1,600	Pkg	10.80
5	5133–00–189–9250	5	2,000	Pkg	10.80

The bid on each item above is the list price shown minus/plus ____ percent. (Bidder, insert ''net'' or a single percentage amount in the blank space and cross out minus or plus, as appropriate.)

(h) *Special considerations for contracts for store stock items.* Show estimated quantities only if estimates of demand for each item within a group can be derived from Government records or verified contractor sales reports. Use only current estimates. If you cannot estimate the Government's needs, the solicitation may include past orders. (See CG Decision, B–209037, 82–2 CPD para 323 (1982).)

(i) *Special considerations for repair and alteration contracts.* In the solicitation:

(1) List the estimated quantities for work to be performed during both normal working hours and outside of normal working hours.

(2) State the percent of work anticipated to be performed during normal working hours.

(3) List the unit prices for work to be performed during both normal working hours and outside of normal working hours.

(4) Define ''normal'' in terms of hours and days of the week.

(5) Advise bidders of the previous year's total expenditures or portions of that total attributable to the listed items.

(6) If you provide quantity estimates, state that the estimates are for information only and do not constitute guarantees or commitments to order items under the contract.

(7) Solicit two percentage factors for the line item unit prices listed: one for the unit prices for work performed during normal working hours and the second for the unit prices for work performed outside of normal working hours.

(8) You may require multiple percentages when the solicitation further groups unit prices by trade or business category.

(9) For the evaluated bid price, add together the following percentages:

(i) The percentage of work performed during normal work hours multiplied by the total estimate adjusted by the bidder's percentage factor for that portion of the work, plus

(ii) The percentage of work performed during other than normal working hours multiplied by the total estimate adjusted by the bidder's percentage factor for that portion of the work.

(10) Consider other price-related factors identified in the solicitation. Make award to the responsible and responsive bidder submitting the lowest overall evaluated bid price for the aggregate group. This represents the most advantageous bid.

Subpart 514.4—Opening of Bids and Award of Contract

514.407 Mistakes in bids.

514.407–3 Other mistakes disclosed before award.

(a) *Delegation of authority by head of the agency.* Under FAR 14.407–3(e), contracting directors (see 502.101) are authorized, without power of redelegation, to make:

(1) The determinations regarding corrections and withdrawals under FAR 14.407–3(a), (b), and (c).

(2) The corollary determinations not to permit withdrawal or correction under FAR 14.407–3(d).

(b) *Legal review and approval.* Assigned counsel must approve determinations by the contracting director and contracting officer regarding mistakes in bid.

514.407–4 Mistakes after award.

The contracting director and assigned counsel review and approve your determinations under FAR 14.407–4(b) and (c).

PART 515—CONTRACTING BY NEGOTIATION

Sub part 515.2—Solicitation and Receipt of Proposals and Information

Sec.
515.204 Contract format
515.204–1 Uniform contract format
515.205 Issuing solicitations
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Subpart 515.3—Source Selection

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Subpart 515.5—Preaward, Award, and Postaward Notifications, Protests, and Mistakes

515.506 Postaward debriefing of offerors

Subpart 515.70—Use and Bid Samples

515.7002 Procedures

Authority: 40 U.S.C. 486(c).

Subpart 515.2—Solicitation and Receipt of Proposals and Information

515.204 Contract format.

515.204–1 Uniform contract format.

(a) The uniform contract format is not required for leases of real property.

(b) Each solicitation and contract must include the two notices in paragraphs (b)(1) and (b)(2) of this section, except that acquisitions of interests in real property, must include only the notice in (b)(1):

(1) ''The information collection requirements contained in this solicitation/contract are either required by regulation or approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act and assigned OMB Control No. 3090–0163.''

(2) ''GSA's hours of operation are 8:00 a.m. to 4:30 p.m. Requests for preaward debriefings postmarked or otherwise submitted after 4:30 p.m. will be considered submitted the following business day. Requests for postaward debriefings delivered after 4:30 p.m. will be considered received and filed the following business day.''

515.205 Issuing solicitations.

Potential sources, as used in FAR 15.205, include both of the following:

(a) The incumbent contractor, except when its written response to the notice of contract action under FAR subpart 5.2 states a negative interest.

(b) Offerors that responded to recent solicitations for the same or similar items.

515.209 Solicitation provisions and contract clauses.

515.209–70 Examination of records by GSA clause.

Clause for Other Than Multiple Award Schedules

(a) For other than multiple award schedule (MAS) contracts, insert the clause at 552.215–70, Examination of Records by GSA, in solicitations and contracts over $100,000, including acquisitions of leasehold interests in real property, that meet any of the following conditions:

(1) Involve the use or disposition of Government-furnished property.

(2) Provide for advance payments, progress payments based on cost, or guaranteed loan.

(3) Contain a price warranty or price reduction clause.

(4) Involve income to the Government where income is based on operations under the control of the contractor.

(5) Include an economic price adjustment clause where the adjustment is not based solely on an established, third party index.

(6) Are requirements, indefinite-quantity, or letter type contracts as defined in FAR part 6.

(7) Are subject to adjustment based on a negotiated cost escalation base.

(8) Contain the provision of FAR 52.223–4, Recovered Material Certification.

(b) You may modify the clause at 552.215–70 to define the specific area of audit (e.g., the use or disposition of Government-furnished property, compliance with the price reduction clause). Counsel and the Assistant Inspector General—Auditing or Regional Inspector General— Auditing, as appropriate, must concur in any modifications to the clause.

Clause for Multiple Award Schedules

(c) Insert the clause at 552.215–71, Examination of Records by GSA (Multiple Award Schedule), in solicitations and contracts for MAS contracts.

(d) With the Senior Procurement's Executive approval, you may modify the clause at 552.215–71 to provide for post-award access to and the right to examine records to verify that the pre-award/modification pricing, sales or other data related to the supplies or services offered under the contract which formed the basis for the award/modification was accurate, current, and complete. The following procedures apply:

(1) Such a modification of the clause must provide for the right of access to expire 2 years after award or modification.

(2) Before modifying the clause, you must make a determination that absent such access there is a likelihood of significant harm to the Government and submit it to the Senior Procurement Executive for approval.

(3) The determinations under paragraph (d)(2) of this section must be made on a schedule-by-schedule basis.

Subpart 515.3—Source Selection

515.305 Proposal evaluation.

(a) *Restrictions placed on a proposal by the submitter.* If you receive a proposal with more restrictive conditions than those in the provision at FAR 52.215–1(e), ask whether the submitter is willing to accept the conditions of the paragraph at FAR 52.215–1(e). If the submitter refuses, consult with legal counsel on whether to accept the proposal as marked or return it.

(b) *Actions before releasing proposal.* Before releasing any proposal to an evaluator you must take all the following actions:

(1) Obtain the signed original ''Conflict of Interest Acknowledgment and Nondisclosure Agreement'' from each Government and nongovernment individual serving as an evaluator. Use the Acknowledgment/Agreement in Figure 515.3–1.

(i) For employees of other Executive agencies, replace the reference in paragraph (c) of the Acknowledgement/Agreement to GSA's supplemental standards with a reference to the applicable agency.

(ii) for nongovernment evaluators, substitute paragraph (c) of the Acknowledgement/Agreement with the following language and delete paragraph (h):

''(c) I have read and understand the requirements of subsection 27(a) and 27(b) of the Office of Federal Procurement Policy Act (41 U.S.C. 423).

(2) Attach to each proposal a cover page bearing the following notice:

Government Notice for Handling Proposals

To anyone receiving this proposal or proposal abstract:

(1) This proposal must be used and disclosed for evaluation purposes only.

(2) You must apply a copy of this Government notice to any reproduction or abstract of this proposal.

(3) You must comply strictly with any authorized restrictive notices which the submitter places on this proposal.

(4) You must *not* disclose this proposal outside the Government for evaluation purposes except to the extent authorized by, and in accordance with, the procedures in 48 CFR 515.305–71.

515.305–70 Use of outside evaluators.

(a) *Conditions.* To use outside evaluators, you must meet the restrictions in FAR 37.203 and 537.2.

(b) *Limitations on disclosing proposal information.* You may disclose proposal information outside the Government before the Government's decision as to contract award only to the extent authorized in this section. Disclosure and handling must comply with FAR 3.1 and 503.1.

(c) *Solicitation notice.* Include in the solicitation a notice substantially as follows:

Notice About Releasing Proposals

(1) The Government intends to disclose proposals received in response to this solicitation to nongovernment evaluators.

(2) Each evaluator will sign and provide to GSA a ''Conflict of Interest Acknowledgment and Nondisclosure Agreement.''

Figure 515.3–1—Conflict of Interest Acknowledgment and Nondisclosure Agreement

Conflict of Interest Acknowledgment and Nondisclosure Agreement

For proposals submitted in response to GAS solicitation no. _____, I agree to the following:

(a) To the best of my knowledge and belief, no conflict of interest exists that may either:

(1) Diminish my capacity to impartially review the proposals submitted.

(2) Or result in a biased opinion or unfair advantage.

(b) In making the above statement, I have considered all the following factors that might place me in a position of conflict, real or apparent, with the evaluation proceedings:

(1) All my stocks, bonds, other outstanding financial interests or commitments.

(2) All my employment arrangements (past, present, and under consideration).

(3) As far as I know, all financial interests and employment arrangements of my spouse, minor children, and other members of my immediate household.

(c) I have read and understand the requirements of the Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR Part 2635) and Supplemental Standards of Ethical Conduct for Employees of the General Service Administration (5 CFR Part 6701).

(d) I have a continuing obligation to disclose any circumstances that may create an actual or apparent conflict of interest. If I learn of any such conflict, I will report it immediately to the Contracting Officer. I will perform no more duties related to evaluating proposals until I receive instructions on the matter.

(e) I will use proposal information for evaluation purposes only. I understand that any authorized restriction on disclosure placed on the proposal by the prospective contractor, prospective subcontractor, or the Government applies to any reproduction or abstracted information of the proposal.

(f) I will use my best efforts to safeguard proposal information physically. I will not disclose the contents of, nor release any information about, the proposals to anyone other than:

(1) The Source Selection Evaluation Board or other panel assembled to evaluate proposals submitted in response to the solicitation identified above.

(2) Other individuals designed by the contracting Officer.

(g) After completing evaluation, I will return to the Government all copies of the proposals and any abstracts.

(h) GSA Appropriations Act restriction: These restrictions are consistent with and do not supersede, conflict with or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosure of Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Codes, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b). The definitions, requirements, obligations, rights, sanctions, and liabilities created by said Executive order and listed statutes are incorporated into this agreement and are controlling.

_____

(Enter name of evaluator and organization)

_____

Date

Subpart 515.4—Contract Pricing

515.408 Solicitation provisions and contract clauses.

MAS Requests for Information Other Than Cost or Pricing Data

(a) You should use Alternative IV of the FAR provision at 52.215–20, Requirements for Cost or Pricing Data or Information Other than Cost or Pricing Data, for MAS contracts to provide the format for submission of information other than cost or pricing data for MAS contracts. To provide uniformity in request under the MAS program, you should insert the following in paragraph (b) of the provision:

(1) An offer prepared and submitted in accordance with the clause at 552.212–70, Preparation of Offer (Multuiple Award Schedule).

(2) Commercial sales practices. The Offeror shall submit information in the format provided in this solicitation in accordance with the instructions at Figure 515.4 of the GSA Acquisition Regulation (48 CFR 515–2), or submit information in the Offeror's own format.

(3) Any additional supporting information requested by the Contracting Officer. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether the price(s) offered is fair and reasonable.

(4) By submission of an offer in response to this solicitation, the Offeror grants the Contracting Officer or an authorized representative the right to examine, at any time before initial award, books, records, documents, papers, and other directly pertinent records to verify the pricing, sales and other data related to the supplies or services proposed in order to determine the reasonableness of price(s). Access does not extend to Offeror's cost or profit information of other data relevant solely to the Offeror's determination of the prices to be offered in the catalog or marketplace.

(b) Insert the following format for commercial sales practices in the exhibits or attachments section of the solicitation and resulting contract (see FAR 12.303).

Commercial Sales Practices Format

Name of Offeror _____ SIN(s) _____

Note: Please refer to Clause 552.212–70, Preparation of Offer (Multiple Award Schedule), for additional information concerning your offer. Provide the following information for each SIN (or group of SINs or SubSIN for which information is the same).

(1) Provide the dollar value of sales to the general public at or based on an established catalog or market price during the previous 12-month period or the offerors last fiscal year: $_____. State beginning and ending of the 12 month period. Beginning _____ ending _____. In the event that a dollar value is not an appropriate measure of the sales, provide and describe your own measure of the sales of the item(s).

(2) Show your total projected annual sales to the Government under this contract for the contract term, excluding options, for each SIN offered. If you currently hold a Federal Supply Schedule contract for the SIN the total projected annual sales should be based on your most recent 12 months of sales under that contract.

SIN _____ $_____
SIN _____ $_____
SIN _____ $_____

(3) Based on your written discounting policies (standard commercial sales practices in the event you do not have written discounting policies), are the discounts and any concessions which you offer the Government equal to or better than your best price (discount and concessions in any combination) offered to any customer acquiring the same items regardless of quantity or terms and conditions? YES____ NO____ (See definition of ''concession'' and ''discount'' in 552.212–70.)

(4)(a) Based on your written discounting policies (standard commercial sales practices in the event you do not have written discounting policies), provide information as requested for each SIN (or group of SINs for which the information is the same) in accordance with the instructions at Figure 515.4, which is provided in this solicitation for your convenience. The information should be provided in the chart below or in an equivalent format developed by the offeror. Rows should be added to accommodate as many customers as required.

Column 1 Customer	Column 2 Discount	Column 3 Quantity/Volume	Column 4 FOB Term	Column 5 Concessions

(b) Do any deviations from your written policies or standard commercial sales practices disclosed in the above chart ever result in better discounts (lower prices) or concessions than indicated? YES __ NO __. If YES, explain deviations in accordance with the instructions at Figure 515.4, which is provided in this solicitation for your convenience.

(5) If you are a dealer/reseller without significant sales to the general public, you should provide manufacturers' information required by paragraphs (1) through (4) above for each item/SIN offered, if the manufacturer's sales under any resulting contract are expected to exceed $500,000. You must also obtain written authorization from the manufacturer(s) for Government access, at any time before award or before agreeing to a modification, to the manufacturer's sales records for the purpose of verifying the information submitted by the manufacturer. The information is required in order to enable the Government to make a determination that the offered price is fair and reasonable. To expedite the review and processing of offers, you should advise the manufacturer(s) of this requirement. The contracting officer may require the

information be submitted on electronic media with commercially available spreadsheet(s). The information may be provided by the manufacturer directly to the Government. If the manufacturer's item(s) is being offered by multiple dealers/resellers, only one copy of the requested information should be submitted to the Government. In addition, you must submit the following information along with a listing of contact information regarding each of the manufacturers whose products and/or services are included in the offer (include the manufacturer's name, address, the manufacturer's contact point, telephone number, and FAX number) for each model offered by SIN:

(a) Manufacturer's Name.
(b) Manufacturer's Part Number.
(c) Dealer's/Reseller's Part Number.
(d) Product Description.
(e) Manufacturer's List Price.
(f) Dealer's/Reseller's percentage discount from list price or net prices.

(End of Format)

(c) Include the instructions for completing the commercial sales practices format in Figure 515.4 in solicitations issued under the MAS program.

Figure 515.4—Instructions for Commercial Sales Practices Format

If you responded ''yes'' to question (3), on the Commercial Sales Practices Format in paragraph (b) of this section, complete the chart in question (4)(a) for the customer(s) who receive your best discount. If you responded ''no'', complete the chart in question (4)(a) showing your written policies or standard sales practices for all customers or customer categories to whom you sell at a price (discounts and concessions in combination) that is equal to or better than the price(s) offered to the Government under this solicitation or with which the Offeror has a current agreement to sell at a discount which equals or exceeds the discount(s) offered under this solicitation. Such agreement shall be in effect on the date the offer is submitted or contain an effective date during the proposed multiple award schedule contract period. If your offer is lower than your price to other customers or customers categories, you will be aligned with the customer or category of customer that receives your best price for purposes of the Price Reductions clause at 552.238–75. The Government expects you to provide information required by the format in accordance with these instructions that is, to the best of your knowledge and belief, current, accurate, and complete as of 14 calender days prior to its submission. You must also disclose any changes in your price list(s), discounts and/or discounting policies which occur after the offer is submitted, but before the close of negotiations. If your discount practices vary by model or product line, the discount information should be by model or product line as appropriate. You may limit the number of models or product lines reported to those which exceed 75% of actual historical Government sales (commercial sales may be substituted if Government sales are unavailable) value of the special item number (SIN).

Column 1—Identify the Applicable Customer or Category of Customer

A ''customer'' is any entity, except the Federal Government, which acquires supplies or services from the Offeror. The term customer includes, but is not limited to original equipment manufacturers, value added resellers, state and local Governments, distributors, educational institutions (an elementary, junior high, or degree granting school which maintains a regular faculty and established curriculum and an organized body of students), dealers, national accounts, and end users. In any instance where the Offeror is asked to disclose information for a customer, the Offeror may disclose information by category of customer if the Offeror's discount policies or practices are the same for all customers in the category. (Use a separate line for each customer or category of customer.)

Column 2—Identify the Discount

The term ''discount'' is as defined in solicitation clause 552.212–70, Preparation of Offer (Multiple Award Schedule). Indicate the best discount (based on your written discounting policies or standard commercial discounting practices if you do not have written discounting policies) at which you sell to the customer or category of customer identified in column 1, without regard to quantity; terms and conditions of the agreements under which the discounts are given; and whether the agreements are written or oral. Net prices or discounts off of other price lists should be expressed as percentage discounts from the price list which is the basis of your offer. If the discount disclosed is a combination of various discounts (prompt payment, quantity, etc.), the percentage should be broken out for each type of discount. If the price lists which are the basis of the discounts given to the customers identified in the chart are different than the price list submitted upon which your offer is based, identify the type or title and date of each price list. The contracting officer may require submission of these price lists. To expedite evaluation, offerors may provide these price lists at the time of submission.

Column 3—Identify the Quantity or Volume of Sales

Insert the minimum quantity or sales volume which the identified customer or category of customer must either purchase/order, per order or within a specified period, to earn a discount indicate the time period.

Column 4—Indicate the FOB Delivery Term for Each Identified Customer

See FAR 47.3 for an explanation of FOB delivery terms.

Column 5—Indicate Concessions Regardless of Quantity Granted to the Identified Customer or Category of Customer

Concessions are defined in solicitation clause 552.12–70, Preparation of Offers (Multiple Award Schedule). If the space provided is inadequate, the disclosure should be made on a separate sheet by reference.

If you respond ''yes'' to question 4(b) in the Commercial Sales Practices Format, provide an explanation of the circumstances under which you deviate from your written policies or standard commercial sales practices disclosed in the chart on the Commercial Sales Practices Format and explain how often they occur. Your explanation should include a discussion of situations that lead to deviations from standard practice, an explanation of how often they occur, and the controls you employ to assure the integrity of your pricing. Examples of typical deviations may include, but are not limited to, one time goodwill discounts to charity organizations or to compensate an otherwise disgruntled customer; a limited sale of obsolete or damaged goods; the sale of sample goods to a new customer, or the sales of prototype goods for testing purposes.

If deviations from your written policies or standard commercial sales practices disclosed in the chart on the Commercial Sales Practices Format are so significant and/or frequent that the Contracting Officer cannot establish whether the price(s) offered is fair and reasonable, then you may be asked to provide additional information. The Contracting Officer may ask for information to demonstrate that you have made substantial sales of the item(s) in the commercial market consistent with the information reflected on the chart on the Commercial Sales Practices Format, a description of the conditions surrounding those sales deviations, or other information that may be necessary in order for the Contracting Officer to determine whether your offered price(s) is fair and reasonable. In cases where additional information is requested the Contracting Officer will target the request in order to limit the submission of data to that needed to establish the reasonableness of the offered price.

(End of Figure)

(d) Insert the clause at 452.215–72, Price Adjustment—Failure to Provide Accurate Information, in solicitations and contracts under the MAS program.

(e) You should use Alternate IV of FAR 52.215–21, Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data—Modifications, to provide for submission of information other than cost or pricing data for MAS contracts. To provide for uniformity in requests under the MAS program, you should insert the following in paragraph (b) of the clause:

(1) Information required by the clause at 552.243–72, Modifications (Multiple Award Schedule).

(2) Any additional supporting information requested by the Contracting Officer. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether the price(s) offered is fair and reasonable.

(3) By submitting a request for modification, the Contractor grants the Contracting Officer or an authorized representative the right to examine, at any time before agreeing to a modification, books, record, documents, papers, and other directly pertinent records to verify the pricing, sales and other data related to the supplies or services proposed in order to determine the

reasonableness of price(s). Access does not extent to Contractor's cost or profit information or other data related solely to the Contractor's determination of the prices to be offered in the catalog or marketplace.

Subpart 515.5—Preawared, Award, and Postaward Notifications, Protests, and Mistakes

515.506 Postaward debriefing of offerors.

For purposes of determining the date of receipt of a request for a post award debriefing, GSA's hours of operation are 8:00 a.m. to 4:30 p.m. Request received after 4:30 p.m. will be considered received the following business day.

Subpart 515.70—Use of Samples

515.7002 Procedures.

(a) *Unsolicited samples.* The reference to FAR 14.404–2(d) in FAR 14.202–4(g) does not apply.

''However, qualifications in the proposal that are at variance with the Government's requirements, constitute deficiencies. Resolve these as provided in FAR 15.306.''

(b) *Solicitation requirements.*

(1) Use the clause at FR 52.214–20. The second sentence in paragraph (c) of the clause does not apply. Substitute a sentence substantially as follows:

Failure of the bid samples to conform to all the required characteristics listed in the solicitation constitutes a deficiency in the proposal (see FAR 15.306).

(2) In addition to listing subjective characteristics that you cannot adequately describe in the specification, you may list and evaluate objective characteristics. To include objective characteristics, you must determine that examination of such characteristics is essential to the acquisition of any acceptable product. Base your determination on past experience or other valid considerations.

(c) FAR 52.215–1(c)(3) applies to samples received after the time set for receipt of offers.

PART 516—TYPES OF CONTRACTS

Subpart 516.2—Fixed Price Contracts

Sec.
516.203–4 Contract clauses

Subpart 516.5—Indefinite-Delivery Contracts

516.506 Solicitation provisions and contract clauses

Subpart 516.6—Time-and-Materials, Labor-Hour, and Letter Contracts

516.603 Letter contracts
516.603–3 Limitations

Authority: 40 U.S.C. 486(c).

Subpart 516.2—Fixed Price Contracts

516.203–4 Contract clauses.

(a) *Multiple award schedules.* Do not use FAR 52.216–2, 52.216–3, or 52.216–4 in negotiated acquisitions based on discounts from established commercial catalogs or pricelists. Instead, use:

(1) 552.216–70, Economic Price Adjustment—FSS Multiple Award Schedule Contracts, in a 1-year solicitation or contract.

(2) 552.216–70 (Alternate I) in multiyear solicitations and contracts.

(b) *Stock or Special Order Program Contracts.* In multiyear solicitations and contracts, after making the determination required by FAR 16.203–2, use 552.216–71, Economic Price Adjustment-Stock and Special Order Program Contract, or a clause prepared as authorized in paragraph (a)(2)(ii) of this subsection.

(1) If the contract includes one or more options to extend the term of the contract, use the clause with its Alternate I or a clause substantially the same as 552.216–71 with its Alternate I suitably modified.

(2) In a contract requiring a minimum adjustment before the price adjustment mechanism is effectuated, use the basic clause with Alternate II or with Alternate I and Alternative II.

(3) If the Producer Price Index is not an appropriate indicator for price adjustment, modify the clause to use an alternate indicator for adjusting prices. Similarly, if other aspects of 552.216–71 are not appropriate, use an alternate clause following established procedures.

(c) *Adjustments based on cost indexes of labor or material.*

(1) If you decide to provide for adjustments based on cost indexes of labor or material, prepare a clause that defines each of the following elements:

(i) The type of labor and/or material subject to adjustment.

(ii) The labor rates, including any fringe benefits and/or unit prices of materials that may be increased or decreased.

(iii) The index(es) that will be used to measure changes in price levels and the base period or reference point from which changes will be measured.

(iv) The period during which the price(s) will be subject to adjustment.

(2) The contracting director must approve use of this clause.

Subpart 516.5—Indefinite-Delivery Contracts

516.506 Solicitation provisions and contract clauses.

(a) In solicitations and contracts for stock or special order program items, when the contract authorizes FSS and other activities to issue delivery or task orders, insert the clause at 552.216–72, Placement of Orders. If only FSS will issue delivery or task orders, insert the clause with its Alternate I.

(b) In solicitations and contracts for single or multiple award schedule program items, insert the clause at 552.216–72, Placement of Orders, with its Alternate II.

(c) If the clause at 552.216–72 is prescribed, insert the provision at 552.216–73, Ordering Information, in solicitations for stock items and in other FSS solicitations. Use 552.216–73 Alternate I when 552.216–72 Alternate I is prescribed. Use 552.216–73 Alternate II when 552.72 Alternate II is prescribed.

Subpart 516.6—Time-and-Materials, Labor-Hour, and Letter Contracts

516.603 Letter contracts.

516.603–3 Limitations.

Architect-Engineer (A–E) Services

(a) *Requirement for a price proposal.* Before you award a letter contract, the proposed A–E must provide a price proposal for the non-design effort.

(b) *Contents of each letter contract.* You must include the following information in the letter contract:

(1) The scope. If you include the design effort, only authorize the A–E to perform those services that are independent of the design effort (for example, feasibility studies, existing facility surveys or site investigation, etc.). Do not authorize the A–E to begin the design effort before the letter contract is definitized.

(2) A definitization schedule. Include dates for each of the following:

(i) Submission of the design fee proposal.

(ii) Start of negotiations.

(iii) Definitization. This date must be no later than 90 days after the date of the letter contract.

(3) A limitation on the Government's liability for the non-design effort to be performed under the contract. Insert this amount in FAR 52.216–24, Limitation of Government Liability.

(c) *Unilateral price decision.* If you must issue a unilateral price decision, the maximum contract amount must not exceed a reasonable price for the excludable items plus the 6 percent statutory fee limitation for the project.

PART 517—SPECIAL CONTRACTING METHODS

Subpart 517.1—Multiyear Contracting

Sec.
517.109 Contract clauses

Subpart 517.2—Options

17.202 Use of options
17.203 Solicitations
17.207 Exercise of options
17.208 Solicitation provisions and contract clauses

Authority: 40 U.S.C. 486(c).

Subpart 517.1—Multiyear Contracting

517.109 Contract clauses.

Use of FAR 52.217–2, Cancellation Under Multi-year Contracts, is optional in multiyear contracts authorized by 40 U.S.C. 490(a)(14) for maintenance and repair of fixed equipment in federally-owned buildings and services and 40 U.S.C. 481(a)(3) for public utility services.

Subpart 517.2—Options

517.200 Scope of subpart.

(a) This subpart applies to all GSA contracts for supplies and services, including:

(1) Services involving construction, alteration, or repair (including dredging, excavating, and painting) of buildings, bridges, roads, or other kinds of real property.

(2) Architect-engineer services.

(b) If a requirement in this subpart is inconsistent with FAR 17.2, this subpart takes precedence.

517.202 Use of options.

(a) *Supplies or services.*

(1) You should use options when they meet one or more of the following objectives:

(i) Reduce procurement lead time and associated costs.

(ii) Ensure continuity of contract support.

(iii) Improve overall contractor performance.

(iv) Facilitate longer term contractual relationships with those contractors that continually meet or exceed quality performance expectations.

(2) An option is normally in the Government's interest in the following circumstances:

(i) You anticipate a need for additional supplies or services during the contract term.

(ii) Multiyear contracting authority is not available or its use is inappropriate and you anticipate a need for additional supplies or services beyond the initial contract term.

(iii) There is a need for continuity of supply or service support.

(iv) Funds are not available for the entirety of the Government's needs, but are likely to become available during the contract term.

(v) The initial contract will be used to evaluate the performance of an emerging small business.

(3) Do not use an option if the market price is likely to change substantially and an economic price adjustment clause inadequately protects the Government's interest.

b *Construction.* For limitations on the use of options, see 536.213 and 536.270.

517.203

Solicitations.

A solicitation that includes an option to extend should inform offerors that the contract could result in a long term contractual relationship subject to both of the following conditions:

(a) Continuing need by GSA.

(b) Level of contract performance that at least meets GSA's quality performance expectations.

517.207 Exercise of options.

Before exercising an option, you must:

(a) Synopsize it unless you meet of the following conditions:

(1) The option was evaluated as part of the original competition.

(2) The contract action meets an exception in FAR 5.202.

(b) Conclude that the contractor's performance under the contract met or exceeded the Government's expectation for quality performance, unless another circumstance justifies an extended contractual relationship.

(c) Determine that the option price is fair and reasonable.

517.208

Solicitation provisions and contract clauses.

(a) For solicitations under FSS's Stock or Special Order Program, insert a provision substantially the same as the provision at 552.217–70, Evaluation of Options, if both of the following conditions apply:

(1) The solicitation contains an option to extend the term of the contract.

(2) The contract will be fixed price and contain an economic price adjustment clause.

(b) Insert the provision at 552.217–71, Notice Regarding Option(s), or a similar provision, in solicitations that include an option for increased quantities of supplies or services or an option to extend.

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

PART 519—SMALL BUSINESS PROGRAMS

Subpart 519.5—Set-Asides for Small Business

Sec.
519.508 Soliciation provisions and contract clauses

Subpart 519.7—The Small Business Subcontracting Program

519.708 Soliciation provisions
519.708–70 Contract clauses

Subpart 519.8—Contracting with the Small Business Administration (The 8(a) Program)

519.870 Direct 8(a) contracting
519.870–8 Contract clauses

Subpart 519.12—Small Disadvantaged Business Participation Program

519.1202 Evaluation factor or subfactor
519.1202–2 Applicability

Authority: 40 U.S.C. 486(c).

Subpart 519.5—Set-Asides for Small Business

519.508 Solicitation provisions for contract clauses.

Insert 552.219–70, Allocation of Orders—Partially Set-Asides Items, in solicitations and requirements type supply contracts that are partially set aside for small business.

Subpart 519.7—The Small Business Subcontracting Program

519.708 Contract clauses.

519.708–70 Solicitation provisions.

Insert the following provisions as directed:

(a) 552.219–71, Notice to Offerors of Subcontracting Plan Requirements, on the cover page of solicitations containing the clause at FAR 52.219–9, Small Business Subcontracting Plan.

(b) 552.219–72, Preparation, Submission, and Negotiations of Subcontracting Plans, in solicitations requiring submission of the subcontracting plan with initial offers.

(c) 552.219–73, Goals for Subcontracting Plan as follows:

(1) Use the basic provision in sealed bid solicitations containing FAR 52.219–9 if you are able to establish realistic target goals.

(2) Use Alternate I in:

(i) sealed bid solicitations if you cannot establish target goals.

(ii) Negotiated solicitations that include FAR 52.219–9, but do not include 552.219–72.

Subpart 519.8—Contracting With the Small Business Administration (The 8(a) Program)

519.870 Direct 8(a) contracting.

519.870–8 Contract clauses.

(a) Insert the following clauses in solicitations, contracts, and orders issued under the MOU:

(1) Insert the clause at 552.219–74, Section 8(a) Direct Award.

(2) Insert the clause at FAR 52.219–14, Limitation on Subcontracting.

(3) Insert the clause at FAR 52.219–18, Notification of Competition Limited to Eligible 8(a) Concerns, Substitute the following paragraph for paragraph (c) of the clause. Add the word ''Deviation'' at the end of the clause title.

(c) Any award resulting from this solicitation will be made directly by the Contracting Officer to the successful 8(a) offeror selected through the evaluation criteria set forth in this solicitation.

(b) Do not use the clauses at FAR 52.219–11, Special 8(a) Contract Conditions, FAR 52.219–12, Special 8(a) Subcontract Conditions, or FAR 52.219–17, Section 8(a) Award.

Subpart 519.12—Small Disadvantaged Business Participation Program

519.1202 Evaluation factor or subfactor.

519.1202–2 Applicability.

In addition to the exception in FAR 19.1202–2, do not evaluate the extent of participation of SDB concerns in performance of multiple award schedule contracts when all fair and reasonable offers from responsible sources are accepted.

PART 522—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

522.001 Defintion

Subpart 522.1—Basic Labor Policies

Sec.
522.101 Labor relations
522.101–1 General
522.10-3–5 Contract clauses

Subpart 522.4—Labor Standards for Contracts Involving Construction

522.406 Administration and enforcement
522.406–6 Payrolls and statements

Subpart 522.8—Equal Employment Opportunity

522.803 Responsibilities
522.804 Affirmative action programs
522.804–1 Nonconstruction
522.805 Procedures
522.807 Exemptions

Authority: 40 U.S.C. 486(c).

522.001 Definition.

Agency labor advisory, as used in this part, means the Director of the GSA Acquisition Policy Division, Office of Acquisition Policy.

Subpart 522.1—Basic Labor Policies

522.101 Labor relations.

522.101–1 General.

(a) GSA personnel performing official duties must maintain GSA's impartiality in disputes between labor and contractor management by refraining from involvement in or expressing a position on:

(1) Labor negotiations between contractors and unions.

(2) The merits of any dispute between labor and a contractor's management.

(b) The Office of General Counsel (OGC) and the agency labor advisor:

(1) Serve as focal points on contractor labor relations.

(2) Initiate contact on contractor labor relations matters with national offices of labor organizations, Government departments, agencies or other governmental organizations.

(3) Serve as a clearinghouse for information on labor laws applicable to Government acquisitions.

(4) Respond to questions involving FAR Part 22, this part, or other contractor labor relations matters concerning GSA acquisition programs. OGC determines the agency's legal position.

522.103–5 Contract clauses.

Insert FAR 52.222–1, Notice to the Government of Labor Disputes, in solicitations and contracts for items on the DoD Master Urgency List.

Subpart 522.4—Labor Standards for Contracts Involving Construction

522.406 Administration and enforcement.

522.406–6 Payrolls and statements.

Statement From Prime Contractors or Subcontractors That Personally Perform Work

(a) Weekly payrolls and statements of compliance with respect to payment of wages are not required from a prime contractor or a subcontractor that personally performs work.

(b) Instead, a prime contractor or a subcontractor that personally performs work must submit weekly certified statements clearly showing the following information:

(1) The individual's contractual relationship.

(2) The scope and date(s) the individual performed the work.

(3) The individual received no wages for the labor performed.

(4) No mechanics or laborers were employed in the prosecution of the work.

(c) Use GSA Form 618–D, Statement to be Submitted When Work is Performed Personally, to furnish this information.

Subpart 522.8—Equal Employment Opportunity

522.803 Responsibilities.

Submit questions on the applicability of E.O. 11246 and implementing regulations to assigned legal counsel.

522.804 Affirmative action programs.

522.804–1 Nonconstruction.

(a) The requirements of FAR 22.804 also apply to each contractor and subcontractor with 50 or more employees who either:

(1) Serves as a depository of Government funds.

(2) Is a financial institution serving as an issuing and paying agent for U.S. savings bonds and savings notes.

(b) Contractors, subcontractors, and financial institutions must develop a written affirmative action compliance program for each of its establishments even if the amount held is less than $50,000.

522.805 Procedures.

(a) To determine whether the contract meets the threshold in FAR 22.805(a), include the value of the basic contract plus priced options. A contract modification exercising a priced option is not a contract award under FAR 22.805(a)(1)(ii) and does not a require a preaward clearance.

(b) Submit preaward review requests directly.

Furnishing Information to Contractors

(c) In addition to the poster required by FAR 22.805(b), provide each nonexempt contractor a copy of SF 100.

522.807 Exemptions.

The agency labor advisor submits a request for exemption.

PART 523—ENVIORNMENT, CONSERVATION, OCCUPATIONAL SAFETY AND DRUG-FREE WORKPLACE

Subpart 523.3—Hazardous Materials Identification and Material Safety Data

Sec.
523.303 Contract clause
523.370 Solicitation provision

Authority: 40 U.S.C. 486(c).

Subpart 523.3—Hazardous Materials Identification and Material Safety Data

523.303 Contract clause.

(a) Insert 552.223–70, Hazardous Substances, in solicitations and contracts for packaged items subject to the Federal Hazardous Substances Act and the Hazardous Materials Transportation Act.

(b) Insert 552.223–71, Nonconforming Hazardous Materials, in solicitations and contracts for supplies that contain hazardous materials.

523.370 Solicitation provision.

Insert 552.223–72, Hazardous Material Information, in any solicitation that provides for delivery of hazardous materials on an f.o.b. origin basis.

PART 525—FOREIGN ACQUISITION

Subpart 525.1—Buy American Act-Supplies

Sec.
525.105 Evaluating offers
525.105–70 Procurement of hand or measuring tools or stainless steel flatware for DOD
525.109 Solicitation provisions and contract clause

Subpart 525.3—Balance of Payments Program

525.302 Policy
525.302–70 Procurements for agencies under the Foreign Assistance Act

Subpart 525.4—Trade Agreements

525.402 Policy
525.408 Solicitation provision and contract clauses

Authority: 40 U.S.C. 486(c).

Subpart 525.1—Buy American Act-Supplies

525.105 Evaluating offers.

525.105–70 Procurement of hand or measuring tools or stainless steel flatware for DOD.

(a) ''Stainless steel flatware'' means special order and stock items of stainless steel flatware purchased for DOD, including, but not limited to, the following National Stock Numbers (NSN):

7340–00–060–6057
7340–00–205–3340
7340–00–205–3341
7340–00–241–8169
7340–00–241–8170
7340–00–241–8171
7340–00–559–8357
7340–00–688–1055
7340–00–721–6316
7340–00–721–6971

(b) Purchases of hand or measuring tools or stainless steel flatware exceeding the simplified acquisition threshold by DOD must be domestic end products. In the case of stainless steel flatware, the Secretary of the Department concerned can make an exception. The individual must determine that a satisfactory quality and sufficient quantity produced in the United States or its possessions are not available when needed at domestic market prices.

(c) If GSA solicitations of hand or measuring tools or stainless steel flatware include DOD requirements, GSA will apply the DOD restrictions. The bases for applying the DOD restriction to GSA acquisitions are:

(1) DOD's restrictions apply to requisitions of such items from the GSA stock program.

(2) The impracticality of establishing a dual supply system to satisfy the requirements of civilian and military agencies.

(3) GSA may reject any offer when it is considered necessary for reasons of national interest.

525.109 Solicitation provisions and contract clause.

If you include DOD requirements for hand or measuring tools or stainless steel flatware in the solicitation for an acquisition to exceed the simplified acquisition threshold, insert 552.225–70, Notice of Procurement Restriction—Hand or Measuring Tools or Stainless Steel Flatware, in the solicitation and resulting contract(s).

Subpart 525.3—Balance of Payments Program

525.302 Policy.

525.302–70 Procurements for agencies under the Foreign Assistance Act.

GSA procurements made directly for other agencies of items to be used outside the United States are made the Balance of Payments Program. The only exception is if GSA contracts as the agent for an agency governed by the Foreign Assistance Act (22 U.S.C. 2151 *et seq.*). If this exception applies, the contract will be governed by the policies and procedures of the agency instead of FAR 25.3 and 525.3. For example, GSA sometimes acts as agent for the Agency for International Development and the Bureau of International Narcotics Matters.

Subpart 525.4—Trade Agreements

525.402 Policy.

As a result of the General Services Administration Board of Contract Appeals (GSBCA) decision in the protest of *International Business Machines Corporation*, 90–2BCA P22,924, May 18. 1990, GSA solicitations and contracts will deviate from FAR 52.225–8, Buy American Act-Trade Agreements-Balance of Payments Program Certificate, and FAR 52.225–9, Buy American Act-Trade Agreements-Balance of payments Program.

525.408 Solicitation provision and contract clauses.

Insert 552.225–8. Buy American Act-Trade Agreements-Balance of Payments Program Certificate, and 552.225–9, Buy American Act-Trade Agreements-Balance of Payments Program, in solicitations and contracts subject to the Trade Agreements Act. Use them instead of FAR 52.225–8 and 52.225–9.

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

PART 527—PATENTS, DATA, AND COPYRIGHTS

Subpart 527.4—Rights in Data and Copyrights

Sec.
527.409 Solicitation provisions and contract clauses

Authority: 40 U.S.C. 486(c).

Subpart 527.4—Rights in Data and Copyrights

527.409 Solicitation provisions and contract clauses.

Architect-Engineer Services and Construction Contracts Involving Architect-Engineer Services

Insert the following in solicitations and contracts for architect-engineer services and construction contracts involving architect-engineer services:

(a) Insert 552.227–70, Government Rights (Unlimited), instead of FAR 52.227–17, Rights in Data-Special Works, in contracts, except if 552.227–71 is prescribed.

(b) If the Government requires sole property rights and exclusive control over the design and data, insert 552.227–71, Drawings and Other Data to Become Property of Government, instead of FAR 52.227–17.

PART 528—BONDS AND INSURANCE

Subpart 528.2—Sureties and Other Security for Bonds

Sec.
528.202 Acceptability of corporate sureties

Subpart 528.3—Insurance

528.310 Contract clause for work on a Government installation

Authority: 40 U.S.C. 486(c).

Subpart 528.2—Sureties and Other Security for Bonds

528.202 Acceptability of corporate sureties.

Corporate surety bonds must be manually signed by the Attorney-in-Fact or officer of the surety company and the corporate seal affixed. You may waive failure of the surety to affix the corporate seal as a minor informality. (See B–184120, July 2, 1975, 75–2 CPD 9.)

Subpart 528.3—Insurance

528.310 Contract clause for work on a Government installation.

(a) Insert the clause at 552.228–70, Workers' Compensation Laws, in each solicitation and contract that meets all the following conditions:

(1) The contract amount is expected to exceed the simplified acquisition threshold.

(2) The contract will require work to be performed on Government property.

(b) In the case of an owner-controlled insurance program, or wrap-up insurance, the clause will be a part of the policy holder's requirements.

PART 529—TAXES

Subpart 529.4—Contract Clauses

Sec.

529.401 Domestic contracts
529.401–70 Purchases at or under the simplified acquisition threshold
529.401–71 Contracts for supplies and services usable by the DC Government

Authority: 40 U.S.C. 486(c).

Subpart 529.4—Contract Clauses

529.401 Domestic contracts.

529.401–70 Purchases at or under the simplified acquisition threshold.

Insert 552.229–70, Federal, State, and Local Taxes, in purchases and contracts estimated to exceed the micropurchase threshold, but not the simplified acquisition threshold.

529.401–71 Contracts for supplies and services usable by the DC Government.

Insert 552.229–71, Federal Tax-DC Government, in solicitations and contracts that permit the District of Columbia Government to place orders.

PART 532—CONTRACT FINANCING

Subpart 532.1—Non-Commercial Item Purchase Financing

Sec.

532.111 Contract clauses for non-commercial purchases

Subpart 532.2—Commercial Item Purchase Financing

532.206 Solicitation provisions and contract clauses

Subpart 532.7—Contract Funding

532.705 Contract clauses
532.705–1 Clauses for contracting in advance of funds

Subpart 532.8—Assignment of Claims

532.806 Contract clauses

Subpart 532.9—Prompt Payment

532.902 Definitions
532–905 Invoice payments
532.905–70 Certification of payment to subcontractors and suppliers under fixed-price construction contracts
532.905–71 Final payment—construction and building service contracts
532.908 Contract clauses

Subpart 532.70—Authorizing Payment By Governmentwide Commercial Purchase Card

532.7001 Definition
532.7002 Solicitation requirements
532.7003 Contract clause

Subpart 532.71—Payments for Recurring Services

532.7101 Definitions
532.7102 Applicability
532.7104 Contract clauses

Authority: 40 U.S.C. 486(c).

Subpart 532.1—Non-Commercial Item Purchase Financing

532.111 Contract clauses for non-commercial purchases.

(a) *Invoice requirements.* Insert 552.232–70, Invoice Requirements, or something substantially the same, in all solicitations and contracts for supplies, services, construction, architect-engineer services, or the acquisition of leasehold interests in real property that require the submission of invoices for payment. Delete subparagraph (b) of the clause if an Accounting Control Transaction (ACT) number is not required for payment.

(b) *Adjusting payments.* Insert 552.232–71, Adjusting Payments, in all solicitations and contracts for recurring building services expected to exceed the simplified acquisition threshold.

(c) *Final payment.* Insert 552.232–72, Final Payment, in all solicitations and contracts for recurring building services expected to exceed the simplified acquisition threshold.

Subpart 532.2—Commercial Item Purchase Financing

532.206 Solicitation provisions and contract clauses.

Discounts for prompt payment. Include 552.232–8, Discounts for Prompt Payments, in multiple award schedule solicitations and contracts insted of the clause at FAR 52.232–8.

Subpart 532.7—CONTRACT FUNDING

532.705 Contract clauses.

532.705–1 Clauses for contracting in advance of funds.

Insert 552.232–73, Availability of Funds, in solicitations and contracts for services which are ''severable'' when both of the following conditions apply:

(a) The contract, or a portion of the contract, will be chargeable to funds of the new fiscal year.

(b) The circumstances described in the prescriptions for FAR 52.232–18 or 52.232–19 do not apply.

Subpart 532.8—Assignment of Claims

532.806 Contract clauses.

Insert the clause at 552.232–23, Assignment of Claims, in solicitations and requirements or indefinite quantity contracts under which more than one agency may place orders.

Subpart 532.9—Prompt Payment

532.902 Definitions.

Full cycle electronic commerce means the use of electronic data interchange (EDI), Internet-based invoice processing, and electronic funds transfer (EFT):

(a) By the Government, to place purchase, delivery, or task orders, receive invoices, and pay invoices.

(b) By the Contractor, to accept and fill orders, submit invoices, and receive payment.

532.905 Invoice payments.

(a) *General and architect-engineer contracts.* Before exercising the authority to modify the date for constructive acceptance or constructive approval of progress payments in the clauses listed in this section, you must prepare a written justification explaining why a longer period is necessary. An official one level above you must approve your justification. Determine the time needed on a case-by-case basis.

(1) In subdivision (a)(6)(i) of the clause at FAR 52.232–25, Prompt Payment, do not specify a constructive acceptance period that exceeds 30 days.

(2) In subdivision (a)(4)(i)(A) of the clause at FAR 52.232–26, Prompt Payment for Fixed-Price Architect-

Engineer Contracts, do not specify a constructive acceptance period that exceeds 30 days.

(3) In subdivision (a)(4)(i)(B) of the clause at FAR 52.232–26, Prompt Payment for Fixed-Price Architect-Engineer Contracts, do not specify a period for constructive approval of progress payments that exceeds 7 days.

(b) *Construction contracts.*

(1) Determine on a case-by-case basis the time specified for payment of progress payments in subdivision (a)(1)(i)(A) of the clause at FAR 52.232–27, Prompt Payment for Construction Contracts. Justify in writing periods longer than 14 days. An official one level above you must approve your justification. Under no circumstances may more than 30 days be specified.

(2) Determine the time to be specified in subdivision (a)(4)(i) of FAR clause 52.232–27, for constructive acceptance or approval, on a case-by-case basis. This time may not exceed 7 days unless you justify a longer period in writing, and obtain the approval of an official one level above you. Under no circumstances may more than 30 days be specified.

(c) *Federal Supply Service.*

(1) To increase efficiency and reduce costs to the Government, Federal Supply Service contracts under the Stock, Special Order, and Schedules Programs may authorize payment within 10 days of receipt of a proper invoice. The contract must meet all the following conditions:

(i) The contractor agrees to full cycle electronic commerce.

(ii) The contract includes FAR 52.232–33, Mandatory Information for Electronic Funds Transfer Payment.

(2) The 10 day payment terms apply to each order that meets all the following conditions:

(i) FSS places the order using EDI in accordance with the Trading Partner Agreement.

(ii) The contractor submits EDI invoices in accordance with the Trading Partner Agreement or invoices through the GSA Finance Center Internet-based invoice process.

(iii) A GSA Finance Center pays the invoices using EFT.

(3) The 10 day payment terms do not apply to any order:

(i) Placed by a GSA contracting activity other than FSS.

(ii) Placed by or paid by another agency.

532.905–70 Certification of payment to subcontractors and suppliers under fixed-price construction contracts.

The contractor may use GSA Form 2419, Certification of Progress Payments Under Fixed-Price Construction Contracts, for the certification required by FAR 52.232–5.

532.905–71 Final payment—construction and building service contracts.

The following procedures apply to construction and building service contracts.

(a) Do not process the final payment on construction or building service contracts until the contractor submits a properly executed GSA Form 1142, Release of Claims. If, after repeated attempts, you are unable to obtain a release of claims from the contractor, you may process the final payment with the approval of assigned legal counsel.

(b) The amount of final payment must include, as appropriate, deductions to cover any of the following:

(1) Liquidated damages for late completion.

(2) Liquidated damages for labor violations.

(3) Amounts withheld for improper payment of labor wages.

(4) The amount of unilateral change orders covering defects and omissions.

532.908 Contract clauses.

(a) *Federal Supply Service.* For FSS Stock, Special Order, and Schedules solicitations and contracts that provide payment in 10 days under 532.905(c):

(1) If the contract will include FAR 52.212–4 insert the clause at 552.232–74, Invoice Payments. GSA received a class deviation to allow use of 552.232–74 for commercial items.

(2) If the contract will not include FAR 52.212–4, insert 552.232–25, Prompt Payment, instead of FAR 552.232–25.

(b) *Leasehold Interests in Real Property.*

(1) Insert 552.232–75, Prompt Payment, in solicitations and contracts for acquiring leasehold interests in real property.

(i) You may modify the date for constructive acceptance in subparagraph (b)(2) of the clause to specify a period longer than 7 calendar days (but not to exceed 30 days) if necessary because of the nature of the services to be received, inspected or accepted by the Government. Prepare a written justification for specifying the longer period and obtain your contracting director's approval.

(ii) Use Alternate I if the lease contract does not contain provisions for ordering alterations or overtime utility services.

(2) Insert 552.232–76, Electronic Funds Transfer Payment, in solicitations and contracts for acquisition of leasehold interests in real property.

Subpart 532.70—Authorizing Payment by Governmentwide Commercial Purchase Card

532.7001 Definition.

Governmentwide commercial purchase card has the same meaning as in FAR 13.101.

532.7002 Solicitation requirements.

(a) In solicitations for supplies and services except telecommunications services (i.e., major systems such as the Federal Telecommunications System or DSN) and multiple award schedule solicitations, request offerors to indicate if they will accept payment by Government commercial credit card. Identify the credit card brand(s) under the GSA SmartPay program that may be used to make payments under the contract, on the cover page or in Section L of the solicitation.

(b) For multiple award schedule contracts, identify the credit card brand(s) under the GSA SmartPay program that may be used to make payments under the contract in the contract award letter.

(c) For orders placed by GSA, you may authorize payment by Government commercial credit card only for orders that do not exceed $100,000 (see GSA Order, Interim Guidance on Use of the Governmentwide Commercial Purchase Card Service (OAD 4200.8).

(d) Consider requesting offerors to designate different levels for which they may accept payment by Government commercial credit card, for example:

If awarded a contract under this solicitation, the offeror agrees to accept payment by commercial credit card for orders of:

____ $2,500 or less
____ $25,000 or less
____ $50,000 or less
____ $100,000 or less

532.7003 Contract clause.

Insert the clause at 552.232–77, Payment By Credit Card, in solicitations and resultant contracts for supplies and services except telecommunications services (i.e., major systems such as the Federal Telecommunications System or DSN) to provide for payment by Governmentwide commercial purchase card as an alternative method of payment for orders.

(a) Use the basic clause when only GSA will place orders under the contract.

(b) Use Alternate I for solicitations and contracts under which other agencies may place orders directly.

Subpart 532.71—Payments for Recurring Services

532.7101 Definitions.

Fixed roll payment means automatic payment of fixed amounts at regular intervals without submission of an invoice or receiving report.

532.7102 Applicability.

You may use fixed roll payments in any contract that meets all four of the following conditions:

(a) The contract provides for recurring services at a constant level for a period of at least two months.

(b) The contract does not contain any discount items.

(c) Payment is due 30 days following completion of the service month.

(d) For a commercial item acquisition, fixed roll payments are consistent with customary commercial practice.

532.7104 Contract clauses.

(a) *Noncommercial item acquisitions.* For solicitations and contracts to be paid by fixed roll payment, include the clause at 552.232–1, Payments. Do not include the clauses at FAR 52.232–1, Payments, or 552,232–70, Invoice Requirements.

(b) *Commercial item acquisitions.* For solicitations and contracts to be paid by fixed roll payment, tailor the clause at FAR 52.212–4 by an addendum as noted in paragraphs (b) (1) and (2) of this section. This tailoring is authorized by a deviation approved on January 5, 1999.

(1) Delete paragraph FAR 52.212–4(g), Invoice.

(2) Add the following to paragraph FAR 52.212–4(i), Payment:

The Government shall pay the Contractor, without submission of invoices or vouchers, 30 days after the service period, the prices stipulated in this contract for services rendered and accepted, less any deductions provided in this contract.

PART 533—PROTESTS, DISPUTES, AND APPEALS

Subpart 533.1—Protests

Sec.

533.103 Protests to the agency
533.103–72 Solicitation provisions

Subpart 533.2—Disputes and Appeals

533.211 Contracting officer's decision

Authority: 40 U.S.C. 486(c).

Subpart 533.1—Protests

§ 533.103 Protests to the agency.

§ 533.103–72 Solicitation provisions.

Include the provision at 552.233–70, Protests Filed Directly With the General Services Administration, in each solicitation for either:

(a) Supplies, services, construction, or architect-engineer services expected to exceed the simplified acquisition threshold.

(b) Acquisition of leasehold interests in real property expected to exceed the simplified lease acquisition threshold.

Subpart 533.2—Disputes and Appeals

§ 533.211 Contracting officer's decision.

In addition to the information in FAR 33.211(a)(4)(v), advise the contractor in your written decision that a notice of appeal must:

(a) Describe the nature of the dispute and the relief sought, the contract provisions involved, and any other additional information or comments relating to the dispute considered important.

(b) Be signed personally by the appellant (the prime contractor making the appeal) or by an officer of the appellant corporation, or member of the appellant firm, or by the contractor's duly authorized representative or attorney.

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

PART 536—CONSTRUCTION AND ARCHITECT—ENGINEER CONTRACTS

Subpart 536.1—General

Sec.

536.101 Applicability

Subpart 536.2—Special Aspects of Contracting for Construction

536.213 Special procedures for sealed bidding in construction contracting
536.213–3 Invitations for bids
536.213–370 Bids that include alternates
536.213–371 Bids that include options
536.213–372 Bids that include both alternates and options
536.270 Exercise of options
536.271 Project labor agreements

Subpart 536.5—Contract Clauses

536.570 Supplemental provisions and clauses
536.570–1 Definitions
536.570–2 Authorities and limitations
536.570–3 Specialist
536.570–4 Basis of award—construction contract
536.570–5 Working hours
536.570–6 Use of premises
536.570–7 Measurements
536.570–8 Specifications and drawings
536.570–9 Shop drawings, coordination drawings, and schedules
536.570–10 Samples
536.570–11 Heat
536.570–12 Use of equipment by the Government
536.570–13 Subcontracts
536.570–14 Requirement for a project labor agreement

Authority: 40 U.S.C. 486(c).

Subpart 536.1—General

536.101 Applicability.

If a requirement in this part is inconsistent with a requirement in another GSAR part, this part takes precedence.

Subpart 536.2—Special Aspects of Contracting for Construction

536.213 Special procedures for sealed bidding in construction contracting.

536.213–3 Invitations for bids.

536.213–370 Bids that include alternates.

(a) The base bid must include all features essential to a sound and adequate building design. If it appears that funds available for a project may be insufficient to include all desired features in the base bid, you may issue a solicitation for a base bid and include one or more alternates in the order of priority. Use alternates only if they are clearly justified and involve substantial amounts of work in relation to the base bid. Their use must be limited and should involve only ''add'' alternates.

(b) Before opening bids that include alternates, determine, and record in the contract file, the amount of funds available for the project. The amount recorded must be announced at the beginning of the bid opening. The amount is the controlling factor in determining the low bidder. This amount may be increased later when determining the alternate items to award to the low bidder if the following condition is met: the award amount of the base bid plus the combination of alternate items does not exceed the amount offered for the base bid and the same combination of alternate items by any other responsible bidder whose bid conforms to the solicitation. This requirement prevents the displacement of the low bidder by manipulating the alternates to be used.

536.213–371 Bids that include options.

(a) Subject to the limitations in paragraph (c) of this section, you may include options in contracts if it is in the Government's interest.

(b) the appropriate use of options may include, but is not limited to, any of the following:

(1) If additional work is anticipated but funds are not expected to be available at the time of award, and it would not be practicable to award a separate contract or to permit an additional contractor to work on the same site.

(2) If fixed building equipment, e.g. elevators or escalators, will be installed under the construction contract and it is

advantageous to have the installer of the equipment maintain and service the equipment during the warranty period.

(c) You must not use options under any of the following conditions:

(1) the prospective option represents known firm requirements for which funds are available unless competition for the option quantity is impracticable once the initial contract is awarded.

(2) The contractor will incur undue risks; e.g., the price or availability of necessary materials or labor is not reasonably foreseeable.

(d) Solicitations containing option provisions must state the period within which the options may be exercised.

(e) Solicitations must state whether the basis of award is inclusive or exclusive of the options. Before issuing a solicitation that includes evaluated options, you must determine that there is reasonable certainty that funds will be made available to permit exercise of the option.

536.213–372 Bids that include both alternates and options.

(a) Solicitations may include both alternates and options if the conditions in 536.213–370, Bids that include alternates, and 536.213–371, Bids that include options, are satisfied. In these solicitations, the low bidder for purposes of award is the responsible bidder offering the lowest aggregate price for the base bid and the alternates, in the order of priority listed in the solicitation, that provide the most work features within the funds available at bid opening, plus all options designated to be evaluated.

(b) The basis of award may require the evaluation of options associated with alternates if the related alternate is selected.

(c) Before opening bids that include both alternates and options, determine, and record in the contract file, the amount of funds available for the project (i.e., for the base bid and alternate work). The amount recorded must be announced at the beginning of the bid opening. This amount may be increased later when determining the alternate items to be awarded to the low bidder if the following condition is met: the award amount of the base bid and evaluated options plus the alternate items does not exceed the amount offered for the base bid, the evaluated options, and the same combination of alternate items by any other responsible bidder whose bid conforms to the solicitation.

536.270 Exercise of options.

(a) If exercising an option, notify the contractor, in writing, within the time period specified in the contract.

(b) Exercise options only after determining that all the following conditions exist:

(1) Funds are available.

(2) The requirement covered by the option fulfills an existing Government need.

(3) Exercising the option is the most advantageous method of satisfying the Government's need, price and other factors considered.

(c) Before exercising an option, you must determine that the action complies with the option's terms and this section's requirements. Include your written determination in the contract file.

(d) The contract modification, or other written document which notifies the contractor of the exercise of the option, must cite the option clause as authority. If exercising an unpriced or unevaluated option, cite the statutory authority permitting the use of other than full and open competition (see FAR 6.302 and 517.207).

536.271 Project labor agreements.

(a) *Authority.* This subpart implements the Presidential memorandum of June 5, 1997, on using project labor agreements (PLAs) on Federal construction projects. The Presidential memorandum authorizes executive departments and agencies to require PLAs on large and significant construction projects for facilities to be owned by a Federal department or agency.

(b) *Applicability.* These policies and procedures apply to all GSA activities authorized to award contracts for construction of facilities to be owned by a Federal department or agency. You may use a PLA in leasehold arrangement, Federally funded projects, and other appropriate circumstances.

(c) *Definitions.*

Construction means construction, alteration, or repair (including dredging, excavating, and painting) of buildings, structures, or other real property. The terms buildings, structures, or other real property are defined further in Federal Acquisition Regulation (FAR) 36.102.

Labor organization means a labor organization engaged in an industry affecting commerce, and any agent of such an organization, and includes any organization of any kind, and any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization (42 U.S.C. 2000e(d)).

Large and significant project means a Federal construction project with a total cost to the Federal Government of more than $5 million.

Project Labor Agreement (PLA) means an agreement between the contractor, subcontractors, and the union(s) representing workers. Under a PLA, the contractor and subcontractors on a project and the union(s) agree on terms and conditions of employment for the project, establishing a framework for labor-management cooperation to advance the Government's procurement interest in cost, efficiency, and quality.

(d) *Policy.*

(1) You may, on a project-by-project basis, use a PLA on a large and significant project when both of the following conditions apply:

(i) A PLA will advance the Government's procurement interests.

(ii) No laws that apply to the specific construction project preclude the use of the PLA.

(2) Do not require any contractor to enter into a PLA with any particular labor organization.

(3) The use of a PLA is not intended to create any right or benefit, substantive or procedural enforceable by a nonfederal party against the United States, its departments, and agencies, its officers or employees, or any other person.

(e) *Procedures.*

(1) As part of procurement planning for construction projects with a total estimated cost to the Federal Government of more than $5 million, you may consider requiring a PLA.

(2) To require a PLA, you must determine whether use of a PLA will advance the Government's procurement interests in all the following areas:

(i) Cost, efficiency, and quality.

(ii) Promoting labor-management stability.

(iii) Promoting compliance with applicable legal requirements governing safety and health, equal employment opportunity, labor and employment standards, and other matters.

(3) In making the determination required by paragraph (b) of this section, consult with the agency project or program manager and obtain guidance from the Agency Labor Advisor and assigned legal counsel. You should consider the following factors:

(i) Whether past experience with construction projects in the location where the project will be performed indicates that a PLA will be effective.

(ii) Whether delays in performance of the construction contract would have significant adverse impact on the mission of the agency or operation of the installation or facility.

(iii) Whether any law applies to the specific construction project that would impede use of a PLA.

(iv) Whether the labor organizations in the area can provide a reliable source of skilled, experienced building trades workers in all crafts needed on the job site for the project's duration (taking into consideration other major construction work in the area).

(v) Whether the Government can benefit from uniform work rules and working conditions and established procedures for resolving labor disputes, no strike/no lock-out protections.

(vi) Whether the Government can benefit from increased stability and labor peace that derives from greater labor-management cooperation.

(vii) Whether the requirements for a PLA will unreasonably restrict competition.

(viii) Other relevant information.

(4) Document the rationale supporting your decision to require a PLA in the contract file.

(5) Provide the following information to the Agency Labor Advisor (GSA Acquisition Policy Division (MVP)):

(i) A brief description of the project.

(ii) The estimated cost.

(iii) A copy of the document supporting your decision to require a PLA.

(iv) A copy of the solicitation.

Subpart 536.5—Contract Clauses

536.570 Supplemental provisions and clauses.

536.570–1 Definitions.

Insert 552.236–70, Definitions, in solicitations and contracts if construction, dismantling, demolition, or removal of improvements is contemplated.

536.570–2 Authorities and limitations.

Insert 552.236–71, Authorities and Limitations, in solicitations and contracts if construction, dismantling, demolition, or removal of improvements is contemplated and the contract amount is expected to exceed the simplified acquisition threshold.

536.570–3 Specialist

Insert 552.236–72, Specialist, in solicitations and contracts for construction if the technical sections of the contract require unusual experience or specialized facilities for adequate contract performance.

536.570–4 Basis of award—construction contract.

(a) Insert a provision substantially the same as 552.236–73, Basis of Award—Construction Contract, in solicitations for fixed-price construction contracts except if any of the following conditions apply:

(1) The solicitation requires the submission of a lump-sum bid only.

(2) The solicitation is for an indefinite quantity contract.

(3) The contract amount is not expected to exceed the simplified acquisition threshold.

(b) *Instructions for use.*

If the solicitation requests the submission of a . . .	Then use the . . .
(1) Base bid and unit prices	Basic provision.
(2) Base bid and options	Provision with its Alternate I.
(3) Base bid and alternates	Provision with its Alternate II.
(4) Base bid, alternates, and options	Provision with its Alternate III.

536.570–5 Working hours.

Insert 552.236–74, Working Hours, in solicitations and contracts if construction, dismantling, demolition, or removal of improvements is contemplated and the contract amount is expected to exceed the simplified acquisition threshold.

536.570–6 Use of premises.

Insert 552.236–75, Use of Premises, in solicitations and contracts if construction, dismantling, demolition, or removal of improvements is contemplated.

536.570–7 Measurements.

Insert 552.236–76, Measurements, in solicitations and contracts if construction, dismantling, demolition, or removal of improvements is contemplated.

536.570–8 Specifications and drawings.

Insert the clause at 552.236–77, Specifications and Drawings, in solicitations and contracts if construction, dismantling, demolition, or removal of improvements is contemplated and the contract amount is expected to exceed the simplified acquisition threshold.

536.570–9 Shop drawings, coordination drawings, and schedules.

Insert the clause at 552.236–78, Shop Drawings, Coordination Drawings, and Schedules, in solicitations and contracts if construction is contemplated and the contract amount is expected to exceed the simplified acquisition threshold.

536.570–10 Samples.

Insert the clause at 552.236–79, Samples, in solicitations and contracts for construction if the technical sections of the contract require the submission and approval of samples.

536.570–11 Heat.

Insert the clause at 552.236–80, Heat, in solicitations and contracts if construction, dismantling, demolition, or removal of improvements is contemplated.

536.570–12 Use of equipment by the Government.

Insert the clause at 552.236–81, Use of Equipment by the Government, in contracts requiring heating and air-conditioning of existing buildings if it may be necessary for the Government to operate all or part of the equipment before final acceptance of the contract.

536.570–13 Subcontracts.

Insert 552.236–82, Subcontracts, in solicitations and contracts for construction if the contract amount is expected to exceed the simplified acquisition threshold.

536.570–14 Requirement for a project labor agreement.

Insert a clause substantially the same as 552.236–83, Requirement for a Project Labor Agreement, in solicitations and contracts that will require a project labor agreement.

Part 537—Service Contracting

Subpart 537.1—Service Contracts—General

Sec.
537.101 Definitions
537.110 Solicitation provisions and contract clauses

Subpart 537.2—Advisory and Assistance Services

537.270 Contract clause

Authority: 40 U.S.C. 486(c).

Subpart 537.1—Service Contracts—General

537.101 Definitions.

''Contracts for building services'' means contracts for services relating to the operation and maintenance of a building (for example, janitorial; window washing; snow removal; trash removal; lawn and grounds care; inspection, maintenance and repair of fixed equipment (e.g., elevators, air-conditioning, hearing systems)) and protection or guard service.

537.110 Solicitation provisions and contract clauses.

Contracts for Building Services

The following provision and clauses apply to contracts for building services:

(a) Insert 552.237–70, Qualifications of Offerors, in solicitations if the contract amount is expected to exceed the simplified acquisition threshold.

(b) Insert 552.237–71, Qualifications of Employees, in solicitations and contracts if the contract amount is expected to exceed the simplified acquisition threshold. If needed, use supplemental provisions or clause to describe specific requirements for employees performing work on the contract.

(c) Insert 552.237–72, Prohibition Regarding ''Quasi-Military Armed Forces,'' in solicitations and contracts for guard service.

Subpart 537.2—Advisory and Assistance Services

537.270 Contract clause.

Insert the clause at 552.237–73, Restriction on Disclosure of Information, in solicitations and contracts for proposal evaluation and analysis services.

PART 538—FEDERAL SUPPLY SCHEDULE CONTRACTING

Subpart 538.2—Establishing and Administering Federal Supply Schedules

Sec.

538.270 Evaluation of multiple award schedule (MAS) offers
538.271 MAS contract awards
538.272 MAS price reductions
538.273 Contract clauses

Authority: 40 U.S.C. 486(c).

Subpart 538.2—Establishing and Administering Federal Supply Schedules

538.270 Evaluation of multiple award schedule (MAS) offers.

(a) The Government will seek to obtain the offeror's best price (the best price given to the most favored customer). However, the Government recognizes that the terms and conditions of commercial sales vary and there may be legitimate reasons why the best price is not achieved.

(b) Establish negotiation objectives based on a review of relevant data and determine price reasonableness.

(c) When establishing negotiation objectives and determining price reasonableness, compare the terms and conditions of the MAS solicitation with the terms and conditions of agreements with the offeror's commercial customers. When determining the Government's price negotiation objectives, consider the following factors:

(1) Aggregate volume of anticipated purchases.

(2) The purchase of a minimum quantity or a pattern of historic purchases.

(3) Prices taking into consideration any combination of discounts and concessions offered to commercial customers.

(4) Length of the contract period.

(5) Warranties, training, and/or maintenance included in the purchase price or provided at additional cost to the product prices.

(6) Ordering and delivery practices.

(7) Any other relevant information, including differences between the MAS solicitation and commercial terms and conditions that may warrant differentials between the offer and the discounts offered to the most favored commercial customer(s). For example, an offeror may incur more expense selling to the Government than to the customer who receives the offeror's best price, or the customer (e.g., dealer, distributor, original equipment manufacturer, other reseller) who receives the best price may perform certain value-added functions for the offeror that the Government does not perform. In such cases, some reduction in the discount given to the Government may be appropriate. If the best price is not offered to the Government, you should ask the offeror to identify and explain the reason for any differences. Do not require offerors to provide detailed cost breakdowns.

(d) You may award a contract containing pricing which is less favorable than the best price the offeror extends to any commercial customer for similar purchases if you make a determination that both of the following conditions exist:

(1) The prices offered to the Government are fair and reasonable, even though comparable discounts were not negotiated.

(2) Award is otherwise in the best interest of the Government.

538.271 MAS contract awards.

(a) MAS awards will be for commercial items as defined in FAR 2.101. Negotiate contracts as a discount from established catalog prices.

(b) Before awarding any MAS contract, determine that the offered prices are fair and reasonable (see FAR subpart 15.4 and 538.270). Document the negotiation and your determination using FAR 15.406–3 as guidance.

(c) State clearly in the award document the price/discount relationship between the Government and the identified commercial customer (or category of customers) on which the award is predicated.

538.272 MAS price reductions.

(a) Section 552.238–75, Price Reductions, requires the contractor to maintain during the contract period the negotiated price/discount relationship (and/or term and condition relationship) between the Government and the offeror's customer or category of customers on which the contract award was predicated (see 538.271(c)). If a change occurs in the contractor's commercial pricing or discount arrangement applicable to the identified commercial customer (or category of customers) that results in a less advantageous relationship between the Government and this customer or category of customers, the change constitutes a ''price reduction.''

(b) Make sure that the contractor understands the requirements of section 552.238–75 and agrees to report to you all price reductions as provided for in the clause.

538.273 Contract clauses.

(a) *Multiple award schedules.* Insert in solicitations and contracts:

(1) 552.238–70, Identification of Electronic Office Equipment Providing Accessibility for the Handicapped, if you include electronic office equipment items.

(2) 552.238–71, Submission and Distribution of Authorized FSS Schedule Pricelists. If GSA is not prepared to accept electronic submissions for a particular schedule delete:

(i) Subparagraphs (c)(1)(ii) and (c)(3).

(ii) The subparagraph identifier ''(i)'' in (c)(1) and the word ''and'' at the end of subparagraph (i).

(3) 552.238–72, Identification of Energy-Efficient Office Equipment and Supplies Containing Recovered Materials or Other Environmental Attributes.

(4) 552.238–73, Cancellation.

(b) *Multiple and single award schedules.* Insert in solicitations and contracts:

(1) 552.238–74, Contractor's Report of Sales.

(2) 552.238–75, Price Reductions.

(3) 552.238–76, Industrial Funding Fee.

SUBCHAPTER G—CONTRACT MANAGEMENT

PART 542—CONTRACT ADMINISTRATION AND AUDIT SERVICES

Subpart 542.11—Production Surveillance and Reporting

Sec.
542.1107 Contract clause.

Subpart 542.15—Contractor Performance Information

542.1503 Procedures.
542.1503–71 Information to collect.

Authority: 40 U.S.C. 486(c).

Subpart 542.11—Production Surveillance and Reporting

542.1107 Contract clause.

FSS Stock or Special Order Program

Insert 552.242–70, Status Report of Orders and Shipments, in solicitations and indefinite quantity and requirements contracts for stock or special order program items. You also may use the clause in indefinite delivery definite quantity contracts for stock or special order program items when close monitoring is necessary because numerous shipments are involved.

Subpart 542.15—Contractor Performance Information

542.1503 Procedures.

542.1503–71 Information to collect.

The system for collecting contractor performance data should include, as appropriate:

(a) Timeliness of delivery or performance, for example:

(1) Adherence to contract delivery schedules.

(2) Resolution of delays

(3) Number of ''show cause'' letters and ''cure notices'' issued.

(4) Number of delinquent deliveries.

(5) Number of contract extensions resulting from contractor-caused delays.

(6) Timely submission or performance or required tests.

(b) Conformance of product or service to contract requirements, for example:

(1) Quality of workmanship.

(2) Reliability.

(3) Adequacy of correction of defects.

(4) Number of safety defects.

(5) Number of product rejections.

(6) Results of laboratory tests.

(7) Number and extent of warranty problems.

(c) Customer comments, for example:

(1) Number and quality of positive comments.

(2) Number and nature of complaints.

(3) Adequacy of resolving customer complaints.

(d) Terminations for default.

(e) On-the-job safety performance record, including the number of lost or restricted workdays due to occupational injuries in comparison to the national average.

(f) Adequacy of contractor's quality assurance system.

(g) Compliance with other key contract provisions, for example:

(1) Subcontracting program.

(2) Labor standards.

(3) Safety standards.

(4) Reporting requirements.

(h) Exhibiting customer-oriented behavior.

(i) Other performance elements identified by the Service.

PART 543—CONTRACT MODIFICATIONS

Subpart 543.2—Change Orders

Sec.
543.205 Contract clauses

Authority: 40 U.S.C. 486(c).

Subpart 543.2—Change Orders

543.205 Contract clauses.

(a) *Construction.*

(1) Insert 552.243–70, Pricing of Adjustments, in solicitations and contracts if the contract:

(i) Amount is expected to exceed the simplified acquisition threshold.

(ii) Will be other than a cost type.

(2) Insert 552.243–71, Equitable Adjustments, in solicitations and contracts containing FAR 52.243–4.

(b) *Multiple award schedules (MAS).* Insert 552.243–72, Modifications (Multiple Award Schedule), in MAS solicitations and contracts issued by GSA. For solicitations and contracts issued under Federal Supply Classification (FSC) 65 you may use the clause with its Alternate I for products ordered from authorized Prime Vendors.

PART 546—QUALITY ASSURANCE

Subpart 546.3—Contract Clauses

Sec.
546.302 Fixed-price supply contracts
546.302–70 Source inspection by Quality Approved Manufacturer
546.302–71 Source inspection
546.312 Construction contracts

Subpart 546.4—Government Contract Quality Assurance

546.470–2 Certification testing

Subpart 546.7—Warranties

546.708 Warranties of Data
546.710 Contract clauses

Authority: 40 U.S.C. 486(c).

Subpart 546.3—Contract Clauses

546.302 Fixed-price supply contracts.

546.302–70 Source inspection by Quality Approved Manufacturer.

For contracts and solicitations issued by FSS:

(a) Insert the clause at 552.246–70, Source Inspection by Quality Approved Manufacturer, in solicitations and contracts that provide for source inspection, except:

(1) Multiple award schedule contracts.

(2) Motor vehicle contracts.

(3) Contracts awarded by the FSS Services Acquisition Center, unless you decide, together with the Central Office Quality Assurance Division (FQA), that inspection by Government personnel is necessary.

(b) You may authorize inspection and testing at manufacturing plants or other facilities located outside the United States, Puerto Rico, or the Virgin Islands, under paragraph (a)(1) of the clause at 552.246–70 under any of the circumstances listed in this paragraph. Coordinate the authorization with FQA and document it in the file.

(1) Inspection services are available from another Federal agency with primary inspection responsibility in the geographic area.

(2) An inspection interchange agreement exists with another agency for inspection at a contractor's plant.

(3) The procurement is for the Agency for International Development and specifies the area of source.

(4) Other considerations will ensure more economical and effective inspection consistent with the Government's interest.

546.302–71 Source inspection.

For solicitations and contracts issued by FSS, if Government personnel at the source will perform inspection, insert 552.246–71, Source Inspection by Government.

546.312 Construction contracts.

Insert the clause at 552.246–72, Final Inspection and Tests, in solicitations and contracts for construction that include FAR 52.246–12, Inspection of Construction.

Subpart 546.4—Government Contract Quality Assurance

546.470–2 Certification testing.

Certification testing determines whether an item conforms with a specification for the purpose of executing a certificate of compliance required by the specification. The contractor has responsibility for certification testing.

Subpart 546.7—Warranties

546.708 Warranties of data.

(a) Use warranties of data only when you meet both of the following conditions:

(1) You decide the use of a warranty is in the Government's interest.

(2) The contracting director concurs in your decision.

(b) The technical or specification manager has responsibility for developing any warranties of data.

546.710 Contract clauses.

(a) Insert the clause at 552.246–17, Warranty of Supplies of a Noncomplex Nature, instead of FAR 52.246–17 in solicitations and contracts. Use the following alternates as applicable:

(1) *Commercial item acquisitions other than multiple award schedules.* Use the clause at 552.246–17 with its Alternate I.

(2) *Other than commercial items in Class 8010.* Use the clause at 552.246–17 with its Alternate II.

(3) *Other than commercial items in Class 8030 or 8040.* Use the clause at 552.246–17 with its Alternate III. In addition, specify in the solicitation whether the items are ''noncritical end use items'' or ''critical end use items''.

(b) *Multiple award schedules, except international schedules.* Insert the clause at 552.246–73, Warranty—Multiple Award Schedule, in solicitations and contracts.

(c) *International multiple award schedules.* Insert the clause at 552.246–74, Warranty—International Multiple Award Schedule, in solicitations and contracts.

(d) *Construction contracts expected to exceed the simplified acquisition threshold.* Insert the clause at 552.246–75, Guarantees, in solicitations and contracts.

(e) *Pesticides.* Insert the clause at 552.246–76, Warranty of Pesticides, in solicitations and contracts involving the procurement of pesticides.

PART 547—TRANSPORTATION

Subpart 547.3—Transportation in Supply Contracts

Sec.
547.300 Scope of subpart
547.303 Standard delivery terms and contract clauses
547.303–1 F.o.b origin
547.304 Determination of delivery terms
547.304–5 Exceptions
547.305 Solicitation provisions, contract clauses, and transportation factors

Authority: 40 U.S.C. 486(c).

Subpart 547.3—Transportation in Supply Contracts

547.300 Scope of subpart.

This subpart applies to FSS acquisitions.

547.303 Standard delivery terms and contract clauses.

547.303–1 F.o.b origin.

Contractor Responsibilities

The contractor must both:

(a) Request a carrier routing from the applicable transportation zone office on all shipments weighing 10,000 pounds or more.

(b) Mail the original of the commercial bill of lading (CBL), to the office that authorized the CBL (applies to shipment on a CBL). Ensure that the signature of the carrier's agent and the annotation required by FAR 52.247–1 appear on the original and all copies of the CBL.

547.304 Determination of delivery terms.

547.304–5 Exceptions.

(a) *Solicitations that provide for delivery to Alaska, Hawaii, or Puerto Rico.* Include notice that the offeror may specify delivery f.o.b. origin; f.o.b. vessel, part of shipment; f.o.b. destination; or any combination of these. If appropriate, provide for other delivery terms.

(b) *Federal Supply Schedules.* If f.o.b. destination is offered for delivery within CONUS, attempt to obtain the same delivery term for shipment to Alaska, Hawaii, or Puerto Rico.

547.305 Solicitation provisions, contract clauses, and transportation factors.

(a) Insert 552.247–70, Placarding Railcar Shipments, in solicitations and contracts if it is essential that the railcar doors be especially positioned next to the unloading dock, platform, or warehouse door.

(b) Insert 552.247–71, Diversion of Shipment Under f.o.b. Destination Contracts, in Stock, Special Order Program (SOP), and Single Award Schedule solicitations and contracts which provide for f.o.b. destination shipment.

PART 549—TERMINATION OF CONTRACTS

Subpart 549.5—Contract Termination Clauses

Sec.
549.502 Termination for convenience of the Government

Authority: 40 U.S.C. 486(c).

Subpart 549.5—Contract Termination Clauses

549.502 Termination for convenience of the Government.

Acquisitions Funded Through the Information Technology (IT) Fund

(a) You may use the clause at 552.249–70, Termination for Convenience of the Government (Fixed-Price) (Short Form), when appropriate, in solicitations and contracts for the acquisition and maintenance of telephone systems funded through the Information Technology (IT) Fund. Use this clause with FAR 52.249–1 or FAR 52.249–3 and 52.249–4.

(b) If you use the clause at 552.249–70, you must also insert 552.249–71, Submission of Termination Liability Schedule, in the solicitation and contract.

SUBCHAPTER H CLAUSES AND FORMS

PART 552 SOLICITATION PROVISIONS AND CONTRACT CLAUSES

552.000 Scope of part

Subpart 552.1—Instructions for Using Provisions and Clauses

552.101–70 Using Part 552
552.102 Incorporating provisions and clauses
552.103 Identification of provisions and clauses
552.104 Procedures for modifying and completing provisions and clauses
552.105 Procedures for using alternates
552.107–70 Provisions and clauses prescribed in subpart 552.1

Subpart 552.2—Text of Provisions and Clauses

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552.203–70 Price Adjustment for Illegal or Improper Activity
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552.209–70 Product Removal from Qualified Products List
552.209–71 Waiver of First Article Testing and Approval Requirement
552.209–72 Supplemental Requirements for First Article Approval—Contractor Testing
552.209–73 Supplemental Requirements for First Article Approval—Government Testing

552.211–8 Time of Delivery
552.211–70 Brand Name or Equal
552.211–71 Standard References
552.211–72 Reference to Specifications in Drawings
552.211–73 Marking
552.211–74 Charges for Marking
552.211–75 Preservation, Packaging and Packing
552.211–76 Charges for Packaging and Packing
552.211–77 Packing List
552.211–78 Commercial Delivery Schedule (Multiple Award Schedule)
552.211–79 Acceptable Age of Supplies
552.211–80 Age on Delivery
552.211–81 Time of Shipment
552.211–82 Notice of Shipment
552.211–83 Availability for Inspection, Testing, and Shipment/Delivery
552.211–84 Non-Compliance with Contract Requirements
552.212–70 Preparation of Offer (Multiple Award Schedule)
552.212–71 Contract Terms and Conditions Applicable to GSA Acquisition of Commercial Items
552.212–72 Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to GSA Acquisition of Commercial Items
552.212–73 Evaluation—Commerical Items (Multiple Award Schedule)
552.214–70 ''All or None'' Offers
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552.214–72 Bid Sample Requirements
552.215–70 Examination of Records by GSA
552.215–71 Examination of Records by GSA (Multiple Award Schedule)
552.215–72 Price Adjustment—Failure to Provide Accurate Information
552.216–70 Economic Price Adjustment—FSS Multiple Award Schedule Contracts
552.216–71 Economic Price Adjustment—Stock and Special Order Program Contracts
552.216–72 Placement of Orders
552.216–73 Ordering Information
552.217–70 Evaluation of Options
552.217–71 Notice Regarding Option(s)
552.219–70 Allocation of Orders—Partially Set-aside Items
552.219–71 Notice to Offerors of Subcontracting Plan Requirements
552.219–72 Preparation, Submission, and Negotiation of Subcontracting Plans
552.219–73 Goals for Subcontracting Plan
552.219–74 Section 8(a) Direct Award
552.223–70 Hazardous Substances
552.223–71 Nonconforming Hazardous Materials
552.223–72 Hazardous Material Information
552.225–8 Buy American Act—Trade Agreements—Balance of Payments Program Certificate
552.225–9 Buy American Act—Trade Agreements—Balance of Payments Program
552.225–70 Notice of Procurement Restriction—Hand or Measuring Tools or Stainless Steel Flatware
552.227–70 Government Rights (Unlimited)
552.227–71 Drawings and Other Data to Become Property of Government
552.228–70 Workers' Compensation Laws
552.229–70 Federal, State, and Local Taxes
552.229–71 Federal Excise Tax—DC Government
552.232–1 Payments
552.232–8 Discounts for Prompt Payment
552.232–23 Assignment of Claims
552.232–25 Prompty Payment
552.232–70 Invoice Requirements
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552.233–70 Protests Filed Directly with the General Services Administration
552.236–70 Definitions
552.236–71 Authorities and Limitations
552.236–72 Specialist
552.236–73 Basis of Award—Construction Contract
552.236–74 Working Hours
552.236–75 Use of Premises
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552.236–77 Specifications and Drawings
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552.236–79 Samples
552.236–80 Heat
552.236–81 Use of Equipment by the Government
552.236–82 Subcontracts
552.236–83 Requirement for a Project Labor Agreement
552.237–70 Qualifications of Offerors
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552.237–72 Prohibition Regarding ''Quasi-Military Armed forces.''
552.237–73 Restriction on Disclosure of Information
552.238–70 Identification of Electronic Office Equipment Providing Accessibility for the Handicapped
552.238–71 Submission and Distribution of Authorized FSS Schedule Pricelists
552.238–72 Identification of Energy-Efficient Office Equipment and Supplies Containing Recovered Materials or Other Environmental Attributes
552.238–73 Cancellation
552.238–74 Contractor's Report of Sales
552.238–75 Price Reductions
552.238–76 Industrial Funding Fee
552.242–70 Status Report of Orders and Shipments
552.243–70 Price of Adjustments
552.243–71 Equitable Adjustments
552.243–72 Modifications (Multiple Award Schedule)
552.246–17 Warranty of Supplies of a Noncomplex Nature
552.246–70 Source Inspection by Quality Approved Manufacturer
552.246–71 Source Inspection by Government
552.246–72 Final Inspection and Tests
552.246–73 Warranty—Multiple Award Schedule
552.246–74 Warranty—International Multiple Award Schedule
552.246–75 Guarantees
552.246–76 Warranty of Pesticides
552.247–70 Placarding Railcar Shipments
552.247–71 Diversion of Shipment Under f.o.b. Destination Contracts
552.249–70 Termination for Convenience of the Government (Fixed Price) (Short Form)
552.249–71 Submission of Termination Liability Schedule
552.252–5 Authorized Deviations in Provisions
552.252–6 Authorized Deviations in Clauses
552.270–1 Instructions to Offerors—Acquisition of Leasehold Interest in Real Property
552.270–2 Historic Preference
552.270–3 Parties to Execute Lease
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552.270–5 Subletting and Assignment
552.270–6 Maintenance of Building and Premises—Right of Entry
552.270–7 Fire and Casualty Damage
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552.270–9 Inspection—Right of Entry
552.270–10 Failure in Performance
552.270–11 Successors Bound
552.270–12 Alterations
552.270–13 Proposals for Adjustment
552.270–14 Changes
552.270–15 Liquidated Damages
552.270–16 Adjustment for Vacant Premises
552.270–17 Delivery and Condition
552.270–18 Default in Delivery—Time Extensions
552.270–19 Progressive Occupancy
552.270–20 Payment
552.270–21 Effect of Acceptance and Occupancy
552.270–22 Default by Lessor During the Term
552.270–23 Subordination, Nondisturbance and Attornment
552.270–24 Statement of Lease
552.270–25 Substitution of Tenant Agency
552.270–26 No Waiver
552.270–27 Integrated Agreement
552.270–28 Mutuality of Obligation
552.270–29 Acceptance of Space

552.000 Scope of part.

This part provides the text of provisions and clauses which are unique to GSA or supplement the FAR.

Subpart 552.1—Instructions for Using Provisions and Clauses

552.101–70 Using Part 552.

(a) *Definition.* ''Clause,'' as used in this subpart, means provision or clause as defined in FAR 52.101(a).

(b) *Numbering.*

(1) Clauses which are ''substantially'' the same as FAR clauses and clauses to be used instead of FAR clauses are identified as follows:

(i) The clause has the same title as a clause in the FAR.

(ii) The number 5 precedes the clause.

(iii) The clause appears under the same subsection number and caption as in the FAR.

(2) Supplemental clauses are numbered in the same manner as the FAR, except:

(i) The chapter number precedes the clause.

(ii) The subsection numbers begin with 70.

(iii) The clauses are sequentially numbered, e.g., 552.232–70, 552.232–71, etc.

552.102 Incorporating provisions and clauses.

You may incorporate clauses prescribed in the GSAR for solicitations and contracts by reference.

552.103 Identification of provisions and clauses.

Deviations. If the GSAR prescribes a class deviation from a FAR clause, identify the clause by the GSAR citation (e.g., 552.232–8 PROMPT PAYMENT DISCOUNT (NOV 1987) (DEVIATION FAR 552.232–8)).

552.104 Procedures for modifying and completing provisions and clauses.

(a) The procedures in FAR 52.104 apply when you modify or complete a GSAR provision or clause. Provisions and clauses shall not be modified unless the GSAR authorizes their modification.

(b) You do not need to identify modifications of clauses which result from negotiations unless you issue an amendment to the solicitation.

(c) In general, you should modify FAR or GSAR clauses only for individual cases. If a contracting activity develops a modification for repeated use, furnish a copy to the Office of GSA Acquisition Policy (MV) for potential inclusion in the GSAR.

552.105 Procedures for using alternates.

The procedures in FAR 52.105 apply to GSAR part 552.

552.107–70 Provisions and clauses prescribed in subpart 552.1.

(a) Insert the provision at 552.252–5, Authorized Deviations in Provisions, in solicitation that include any FAR or GSAR clause with an authorized deviation. You must use this provision in lieu of the FAR provision at 552.252–5.

(b) Insert the clause at 552.252–6, Authorized Deviations in Clauses, in solicitations and contracts that include any FAR or GSAR clause with an authorized deviation. You must use this clause in lieu of the FAR clause at 52.252–6.

Subpart 552.2—Text of Provisions and Clauses

552.200 Scope of subpart.

This subpart sets forth the text of all GSAR provisions and clauses. It also cross-references the location in the GSAR that prescribes the use of each provision and clause.

552.203–5 Covenant Against Contingent Fees.

As prescribed in 502.404, insert the following clause:

Convenant Against Contingent Fees (Feb 1990)

(a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warrant, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover the full amount of the contingent fee.

(b) ''Bona fide agency,'' as used in this clause, means an established commercial or selling agency (including licensed real estate agents or brokers), maintained by a Contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

''Bona fide employee,'' as used in this clause, means a person, employed by a Contractor and subject to the Contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

''Contingent fee,'' as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

''Improper influence,'' as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

(End of clause)

552.203–70 Price Adjustment for Illegal or Improper Activity.

As prescribed in 503.104–9, insert the following clause:

Price Adjustment for Illegal or Improper Activity (Sep 1999)

(a) If the head of the contracting activity (HCA) or his or her designee determines that there was a violation of subsection 27(a) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), as implemented in the Federal Acquisition Regulation, the Government, at its election, may—

(1) Reduce the monthly rental under this lease by 5 percent of the amount of the rental for each month of the remaining term of the lease, including any option periods, and recover 5 percent of the rental already paid;

(2) Reduce payments for alterations not included in monthly rental payments by 5 percent of the amount of the alterations agreement; or

(3) Reduce the payments for violations by a Lessor's subcontractor by an amount not to exceed the amount of profit or fee reflected in the subcontract at the time the subcontract was placed.

(b) Prior to making a determination as set forth above, the HCA or designee shall provide to the Lessor a written notice of the action being considered and the basis therefor. The Lessor shall have a period determined by the agency head or designee, but not less than 30 calendar days after receipt of such notice, to submit in person, in writing, or through a representative, information and argument in opposition to the proposed reduction. The agency head or designee may, upon good cause shown, determine to deduct less than the above amounts from payments.

(c) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this lease.

(End of clause)

552.203–71 Restriction on Advertising.

As prescribed in 503.570–2, insert the following clause:

Restriction on Advertising (Sep 1999)

The Contractor shall not refer to this contract in commercial advertising or similar promotions in such a manner as to state or imply that the product or service provided is endorsed or preferred by the White House, the Executive Office of the President, or any other element of the Federal Government, or is considered by these entities to be superior to other products or services. Any advertisement by the Contractor, including price-off coupons, that refers to a military resale activity shall contain the following statement: ''This advertisement is neither paid for nor sponsored, in whole or in part, by any element of the United States Government.''

(End of clause)

552.209–70 Produce Removal from Qualified Products List.

As prescribed in 509.206–2, insert the following clause:

Product Removal From Qualified Products List (Sep 1999)

If, during the performance of this contract, the product being furnished is for any reason (except those outlined in paragraph 3.1.1 of the applicable Federal or Interim Federal Specification for security cabinets, security vault doors and changeable combination padlocks) removed from the Qualified Products List, the Government may terminate this contract for default.

(End of clause)

552.209–71 Waiver of First Article Testing and Approval Requirement.

As prescribed in 509.306, insert the following provision:

Waiver of First Article Testing and Approval Requirement (Sep 1999)

(a) Offerors must submit an offer including testing and approval, however, an offeror may submit an alternate offer excluding testing and approval, provided the offeror satisfies the requirements for the waiving of first article testing.

(b) Before a waiver of the first article testing requirement of this solicitation will be considered, the offeror is requested to identify the procurement under which the product offered was previously approved and accepted:

_____

(Offeror to insert both contract number and applicable national stock number.)

(End of provision)

552.209–72 Supplemental Requirements for First Article Approval—Contractor Testing.

As prescribed in 509.308–1, insert the following clause:

Supplemental Requirements for First Article Approval—Contractor Testing (Sep 1999)

(a) The term ''Contracting Officer'' as used in FAR 52.209–3, First Article Approval—Contractor Testing, means the Administrative Contracting Officer (ACO).

(b) The Contractor shall have either (1) the necessary inspection and test equipment at the Contractor's plant to perform first article testing, or (2) if the inspection and test equipment is not available, a letter of commitment from a laboratory acceptable to the Government to perform the inspection and testing.

(c) When the Government elects to witness the first article testing, the Contractor shall conduct the testing between the hours of 7:00 AM and 5:00 PM, Monday thru Friday, unless a different time is agreed to by the ACO.

(d) The first article test report shall contain:

(1) The complete test data, the test method(s) used and date of test;

(2) Signature and printed name of the individual who performed the inspection;

(3) Applicable specification/CID and/or drawing numbers;

(4) Name and type of test equipment used; and

(5) All numerical values as a result of testing with each noted as to whether it passes or fails the contract test requirements.

(e) The first article shall be retained by the Contractor as the manufacturing standard and will be kept in a secure area, under control of the Quality Assurance Specialist (QAS), to protest against possible changes or alterations for the life of the contract. If the first article sample is destroyed during testing or damaged to a point making it unusable as a standard, the Contractor, upon Government request, shall provide a second sample.

(f) If the Contractor delivers the approved first article as part of the contract quantity, it shall be in the last scheduled delivery under the contract.

(End of clause)

552.209–73 Supplemental Requirements for First Article Approval—Government Testing.

As prescribed in 509.308–2, insert the following clause:

Supplemental Requirements for First Article Approval—Government Testing (Sep 1999)

(a) The term ''Contracting Officer'' as used in FAR 52.209–4, First Article Approval—Government Testing, means the Administrative Contracting Officer (ACO).

(b) The first article shall be retained by the Contractor as the manufacturing standard and will be kept in a secure area, under the control of the Quality Assurance Specialist (QAS) to protect against possible changes or alterations for the life of the contract. If the first article sample is destroyed during testing or damaged to a point making it unusable as a standard, the Contractor, upon Government request, shall provide a second sample.

(c) If the Contractor deliver the approved first article as part of the contract quantity, it shall be in the last scheduled delivery under the contract.

(End of clause)

552.211–8 Time of Delivery.

As prescribed in 511.404(a)(1) insert the following clause:

Time of Delivery (Sep 1999)

(a) The time of delivery for each item means the time required after receipt of an order (1) to make delivery to a destination in the case of delivered prices, or (2) to place shipment in transit in the case of f.o.b. origin prices.

(b) Delivery is required to be made at the point(s) specified within _____ days after receipt of order.

(End of clause)

Alternate I (SEP 1999). It it is necessary to show different delivery times for different items or groups of items, the Contracting Officer may substitute the following paragraph (b) for paragraph (b) of the basis clause.

(b) Delivery is required to be made at the point(s) specified within the number of calender days after receipt of order as indicated below:

Items or groups of items (Special Item Numbers or Nomenclature)	Required delivery time (DAYS ARO)

552.211–70 Brand Name or Equal.

As prescribed in 511.170–3(c), insert the following provision:

Brand Name or Equal (Feb 1996)

(As used in this clause, the term ''brand name'' includes identification of products by make and model.)

(a) Identification of items in this solicitation by a ''brand name or equal'' description is intended to indicate the quality and characteristics of products that will be satisfactory and is not intended to be restrictive. Offers of ''equal'' products (including products of the brand name manufacturer other than the one described by brand name) will be considered for award if such products are clearly identified in the offers and are determined by the Government to meet fully the salient characteristics requirements listed in the solicitation.

(b) Unless clearly indicated in the offer than an ''equal'' product is offered, the offer shall be considered as offering a referenced brand name product.

(c)(1) An offeror proposing to furnish an ''equal'' product shall insert the name of the product in the space provided in the solicitation or otherwise clearly the product. The Government's determination as to the acceptability of the ''equal'' product shall be based on information furnished or otherwise identified in the offer as well as other information reasonably available to the purchasing activity. CAUTION TO OFFERORS. The purchasing activity is not responsible for locating or securing any information not identified in the offer and reasonably available to the purchasing activity. Accordingly, to ensure that sufficient information is available, the offeror must furnish with its offer all descriptive material (such as cuts, illustrations, drawings, or other information) necessary for the purchasing activity to (i) determine whether the product offered meets the special salient characteristics, and (ii) establish exactly what the offeror proposes to furnish. The information furnished may include specific references to information previously furnished or otherwise reasonably available to the purchasing activity.

(2) An offeror proposing to modify a product to make it conform to the requirements of the solicitation shall (i) include in its offer a clear description of the proposed modifications and (ii) clearly mark any descriptive material to show the proposed modifications.

(3) In sealed bidding, modifications proposed after bid opening to make a product conform to a brand name product referenced in the solicitation will not be considered.

(End of provision)

552.211–71 Standard References.

As prescribed in 511.204(a), insert the following clause:

Standard References (Sep 1999)

(a) All documents and publications (such as, but not limited to, manuals, handbooks, codes, standards and specifications) cited in this contract for the purpose of establishing requirements applicable to equipment, materials, or workmanship under this contract, shall be deemed to be incorporated herein as fully as if printed and bound with the specifications of this contract, in accordance with the following:

(1) Wherever reference is made to Standard Specifications of the Public Buildings Service, Interim Federal Specifications, Interim Amendments to Federal Specifications, Interim Federal Standards, or Interim Amendments to Federal Standards, the Contractor shall comply with the requirements set out in the issue or edition identified in this contract.

(2) Wherever reference is made to any such document other than those specified in subparagraph (1) above, the Contractor shall comply with the requirements set out in the edition specified in this contract, or if not specified, the latest edition or revision thereof, as well as the latest amendment or supplement thereto, in effect on the date of the solicitation on this project, except as modified by, as otherwise provided in, or as limited to type, class or grade, by the specifications of this contract.

(b) Upon request the Contractor shall make available at the job site within a reasonable time, a copy of each trade manual and standard which is incorporated by reference in this contract and which governs quality and workmanship.

(End of clause)

552.211–72 Reference to Specifications in Drawings.

As prescribed in 511.204(b), insert the following clause:

References to Specifications in Drawings (Feb 1996)

If military or other drawings are made a part of this contract, any reference in the drawings to Federal specifications or standards will be considered to be a reference to the date of such Federal specification or standard identified in the contract. If the date of the Federal specification or standard is not identified in the contract, the edition, including revisions thereto, in effect on the date the solicitation is issued will apply.

(End of clause)

552.211–73 Marking.

As prescribed in 511.204(c)(1), insert the following clause:

Marking (Feb 1996)

(a) *General requirements.* Interior packages, if any, and exterior shipping containers shall be marked as specified elsewhere in the contract. Additional marking requirements may be specified on delivery orders issued under the contract. If not otherwise specified, interior packages and exterior shipping containers shall be marked in accordance with the following standards:

(1) *Deliveries to civilian activities.* Supplies shall be marked in accordance with Federal Standard 123, edition in effect on the date of issuance of the solicitation.

(2) *Deliveries to military activities.* Supplies shall be marked in accordance with Military Standard 129, edition in effect on the date of issuance of the solicitation.

(b) *Improperly marked material.* When Government inspection and acceptance are at destination, and delivered supplies are not marked in accordance with contract requirements, the Government has the right, without prior notice to the Contractor, to perform the required marking, by contract or otherwise, and charge the Contractor therefor at the rate specified elsewhere in this contract. This right is not exclusive, and is in addition to other rights or remedies provided for in this contract.

(End of clause)

552.211–74 Charges for Marking.

As prescribed in 511.204(c)(2), insert a clause substantially as follows:

Charges for Marking (Feb 1996)

The rate provided for in paragraph (b) of 552.211–73, Marking, is $_____* per man-hour or fraction thereof.

(End of clause)

**The rate to be inserted in the above clause shall be determined and published by the Commissioner, Federal Supply Service, or a designee.*

552.211–75 Preservation, Packaging and Packing.

As prescribed in 511.204(c)(3), insert the following clause:

Preservation, Packaging, and Packing (Feb 1996)

Unless otherwise specified, all items shall be preserved, packaged, and packed in accordance with normal commercial practices, as defined in the applicable commodity specification. Packaging and packing shall comply with the requirements of the Uniform Freight Classification and the National Motor Freight Classification (issue in effect at time of shipment) and each shipping container of each item in a shipment shall be of uniform size and content, except for residual quantities. Where special or unusual packing is specified in an order, but not specifically provided for by the contract, such packing details must be the subject of an agreement independently arrived at between the ordering agency and the Contractor.

(End of clause)

552.211–76 Charges for Packaging and Packing.

As prescribed in 511.204(c)(4), insert a clause substantially as follows:

Charges for Packaging and Packing (Feb. 1996)

If supplies shipped to a GSA wholesale distribution center are not packaged and packed in accordance with contract requirements, the Government has the right, without prior notice to the Contractor, to perform the required repackaging/repacking, by contract or otherwise, and charge the Contractor therefore at the rate of $____*____ per man-hour or fraction thereof. The Contractor will also be charged for material costs, if incurred. This right is not exclusive, and is in addition to other rights or remedies provided for in this contract.

(End of clause)

**The rate to be inserted in the above clause shall be determined by the Commissioner, Federal Supply Service, or a designee.*

552.211–77 Packing List.

As prescribed in 511.204(d), insert the following clause:

Packing List (Feb. 1996)

(a) A packing list or other suitable shipping document shall accompany each shipment and shall indicate:

(1) Name and address of the consignor;

(2) Name and complete address of the consignee;

(3) Government order or requisition number;

(4) Government bill of lading number covering the shipment (if any); and

(5) Description of the material shipped, including item number, quantity, number of containers, and package number (if any).

(b) When payment will be made by Government commercial credit card, in addition to the information in (a) above, the packing list or shipping document shall include:

(1) Cardholder name and telephone number and

(2) The term ''Credit Card.''

(End of clause)

552.211–78 Commercial Delivery Schedule (Multiple Award Schedule).

As prescribed in 511.404(a)(2), insert the following clause:

Commercial Delivery Schedule (Multiple Award Schedule) (Feb. 1996)

(a) *Time of Delivery.* The Contractor shall deliver to destination within the number of calendar days after receipt of order (ARO) in the case of F.O.B. Destination prices, or to place of shipment in transit in the case of F.O.B. Origin prices, as set forth below. Offerors shall insert in the ''Time of Delivery (days ARO)'' column in the schedule of Items a definite number of calendar days within which delivery will be made. In no case shall the offered delivery time exceed the Contractor's normal commercial practice. The Government requires the Contractor's normal commercial delivery time, as long as it is less than the ''STATED'' delivery time(s) shown below. If the Offeror does not insert a delivery time in the schedule of items, the Offeror will be deemed to offer delivery in accordance with the Government's stated delivery time as stated below:

Items or group of items (Special Item Number or Nomenclature)	Government's stated delivery time (days ARO)	Contractor's normal commercial delivery time
	.....	.....
	.....	.....
	.....	.....

(b) *Expedited Delivery Times.* For those items that can be delivered quicker than the delivery times in paragraph (a), above, the Offeror is requested to insert below, a time (hours/days ARO) that delivery can be made when expedited delivery is requested.

Item or group of items (Special Item Number or Nomenclature)	Expedited delivery time (HOURS/ DAYS ARO)
	.....
	.....
	.....

(c) *Overnight and 2-Day Delivery Times.* Ordering activities may require overnight or 2-day delivery. The Offeror is requested to annotate its price list or by separate attachment identify the items that can be delivered overnight or within 2 days. Contractors offering such delivery services will be required to state in the cover sheet to its FSS price list details concerning this service.

(End of clause)

552.211–79 Acceptable Age of Supplies.

As prescribed in 511.404(a)(3)(i), insert the following clause:

Acceptable Age of Supplies (Feb. 1996)

The supplies furnished under this contract shall not be more than ____ months old, beginning with the first full month after the date of manufacture marked on the container. For the purpose of this clause, supplies shall be considered to be furnished (1) when they are offered to the Government for inspection and testing, or (2) on the date of shipment if shipment is authorized to be made without prior inspection by the Government. If the age of the supplies furnished under this contract is greater than the specified period, the Government may exercise its right to reject the supplies.

(End of clause)

Alternate I (FEB 1996). For items having a limited shelf-life, the sentence below should be substituted for the first sentence of the basic clause when authorized:

The supplies furnished under this contract shall not be more than ____ days old, beginning with the date of manufacture (month, day, year) marked on the container.

552.211–80 Age on Delivery.

As prescribed in 511.404(a)(3)(ii) insert the following clause:

Age on Delivery (Feb. 1996)

Included in the description of each shelf-life item is a statement regarding the ''age on delivery.'' The age of the item(s) shall not exceed the number of months shown in the item description, counted from the first day of the month after the month of manufacture to the date of delivery to the specified delivery point(s). If the age of the supplies delivered under this contract is greater than the number of months shown, the Government may exercise its right to reject the supplies.

(End of clause)

552.211–81 Time of Shipment.

As prescribed in 511.404(a)(4), insert the following clause:

Time of Shipment (Feb. 1996)

Shipment is required within _____ calendar days after receipt of order.

(End of clause)

Alternate I (FEB 1996). If the contract will require shipment more than 45 calendar days after receipt of the order, the following paragraph should be added to the basic clause.

Each delivery order will specify that shipment is required no later than the number of days shown above. If such order also states that ''Early Shipment is Precluded,'' the Contractor agrees to make shipment no sooner than _____ calendar days after receipt of order. Earlier shipments may result in nonacceptance of the supplies at the delivery point at the time of arrival.

(The second number to be inserted should be 15 calendar days less than the first number.)

552.211–82 Notice of Shipment.

As prescribed in 511.404(a)(5), insert the following clause:

Notice of Shipment (Feb 1996)

If specified in an order placed under this contract, the Contractor shall, at the time each shipment is made on such order, furnish a notice of shipment to either the consignee or the ordering office or both, as specified. This requirement may be satisfied by completion and return of appropriate forms furnished by the ordering office or by the furnishing of copies of bills of lading, freight bills, or similar documents in accordance with normal commercial practice if such document clearly identifies the order number, items and quantities shipped, date of shipment, point of origin, method of shipment and routing, and the name of initial carrier.

(End of clause)

552.211–83 Availability for Inspection, Testing, and Shipment/Delivery.

As prescribed in 511.404(a)(6), insert the following clause:

Availability for Inspection, Testing, and Shipment/Delivery (Feb 1996)

(a) The Government requires that the supplies be made available for inspection and testing within _____*_____ calendar days after receipt of [*Insert ''Notice of Award'' or ''order''*], and be [*Insert ''shipped'' or ''delivered''*] within _____*_____ calendar days after receipt of (1) notice of approval and release by the Government inspector or (2) authorization to ship without Government inspection.

(b) Failure to make supplies available for inspection and testing or to [*Insert ''ship'' or ''deliver''*] as required by this clause may result in termination of this contract for default.

(End of clause)

Alternate I (Feb. 1996). If the contract is for stock items, the Contracting Officer shall insert ''shipped'' or ''ship'' in the basic clause, add the following paragraph (b) and redesignate paragraph (b) of the basic clause as paragraph (c).

(b) If notice of approval and release by the Government inspector or authorization to ship without Government inspection is received before _____*_____ calendar days after receipt of the [*Insert ''Notice of Award'' or ''order''*], receipt of such notice shall be deemed to be received on the _____*_____ calendar day after receipt of [*Insert ''Notice of Award'' or ''order''*]. Shipments shall not be made before the _____*_____ calendar day after receipt of the [*Insert ''Notice of Award'' or ''order''*] unless authorized in writing by the Contracting Officer.

*Entries are normally the same number of days specified for availability.

552.211–84 Non-Compliance With Contract Requirements.

As prescribed in 511.404(b), insert the following clause:

Non-Compliance With Contract Requirements (Feb 1996)

In the event the Contractor, after receiving written notice from the Contracting Officer of non-compliance with any requirement of this contract, fails to initiate promptly such action as may be appropriate to comply with the specified requirement within a reasonable period of time, the Contracting Officer shall have the right to order the Contractor to stop any or all work under the contract until the Contractor has complied or has initiated such action as may be appropriate to comply within a reasonable period of time. The Contractor will not be

entitled to any extension of contract time or payment for any costs incurred as a result of being ordered to stop work for such cause.

(End of clause)

552.212–70 Preparation of Offer (Multiple Award Schedule).

As prescribed in 512.301(a)(1), insert the following clause:

Preparation of Offer (Multiple Award Schedule) (Aug 1997)

(a) Definitions. *Concession,* as used in this solicitation, means a benefit, enhancement or privilege (other than a discount), which either reduces the overall cost of a customer's acquisition or encourages a customer to consummate a purchase. Concessions include, but are not limited to freight allowance, extended warranty, extended price guarantees, free installation and bonus goods.

Discount, as used in this solicitation, means a reduction to catalog prices (published or unpublished). Discounts include, but are not limited to, rebates, quantity discounts, purchase option credits, and any other terms or conditions other than concessions) which reduce the amount of money a customer ultimately pays for goods or services ordered or received. Any net price lower than the list price is considered a ''discount'' by the percentage difference from the list price to the net price.

(b) For each Special Item Number (SIN) included in an offer, the Offeror shall provide the information outlined in paragraph (c). Offerors may provide a single response covering more than one SIN, if the information disclosed is the same for all products under each SIN. If discounts and concessions vary by model or product line, offerors shall ensure that information is clearly annotated as to item or items referenced.

(c) Provide information described below for each SIN:

(1) Two copies of the offeror's current published (dated or otherwise identified) commercial descriptive catalogs and/or price list(s) from which discounts are offered. If special catalogs or price lists are printed for the purpose of this offer, such descriptive catalogs or price lists shall include a statement indicating the special catalog or price list represent a verbatim extract from the Offeror's commercial catalog and/or price list and identify the descriptive catalog and/or price list from which the information has been extracted.

(2) Next to each offered item in the commercial catalog and/or price list, the Offeror shall write the special item number (SIN) under which the item is being offered. Unless a special catalog or price list is submitted, all other items shall be marked ''excluded,'' lined out, and initiated by the offeror.

(3) The discount(s) offered under this solicitation. The description of discounts offered shall include all discounts, such as prompt payment discounts, quantity/dollar volume discounts (indicate whether models/products can be combined within the SIN or whether SINs can be combined to earn discounts), blanket purchase agreement discounts, or purchase option credits. If the terms of sale appearing in the commercial catalogs or price list on which an offer is based are in conflict with the terms of this solicitation, the latter shall govern.

(4) A description of concessions offered under this solicitation which are not granted to other customers. Such concessions may include, but are not limited to, an extended warranty, a return/exchange goods policy, or enhanced or additional services.

(5) If the Offeror is a dealer/reseller or the Offeror will use dealers to perform any aspect of contract awarded under this solicitation, describe the functions, if any, that the dealer/reseller will perform.

(End of clause)

552.212–71 Contract Terms and Conditions Applicable to GSA Acquisition of Commercial Items.

As prescribed in 512.301(a)(2), insert the following clause:

Contract Terms and Conditions Applicable to GSA Acquisition of Commercial Items (Sep 1999)

The Contractor agrees to comply with any provision or clause that is incorporated herein by reference to implement agency policy applicable to acquisition of commercial items or components. The provision or clause in effect based on the applicable regulation cited on the date the solicitation is issued applies unless otherwise stated herein. The following provisions and clauses are incorporated by reference:

[*The contracting officer should either check the provisions and clauses that apply or delete the provisions and clauses that do not apply from the list. The contracting officer may add the date of the provision or clause if desired for clarity.*

(a) *Provisions.*

____ 552.237–70 Qualifications of Offerors

(b) *Clauses.*

____ 552.203–71 Restriction on Advertising
____ 552.211–73 Marking
____ 552.2215–70 Examination of Records by GSA
____ 552.215–71 Examination of Records by GSA (Multiple Award Schedule)
____ 552.215–72 Price Adjustment—Failure to Provide Accurate Information
____ 552.219–70 Allocation of Orders—Partially Set-Aside Items
____ 552.228–70 Workers' Compensation Laws
____ 552.229–70 Federal, State, and Local Taxes
____ 552.232–8 Discounts for Prompt Payment
____ 552.232–23 Assignment of Claims
____ 552.232–71 Adjusting Payments
____ 552.232–72 Final Payment
____ 552.232–73 Availability of Funds
____ 552.237–71 Qualifications of Employees
____ 552.238–71 Submission and Distribution of Authorized FSS Schedule Price List
____ 552.238–74 Contractor's Report of Sales
____ 552.238–75 Price Reductions
____ 552.242–70 Status Report of Orders and Shipments
____ 552.243–72 Modifications (Multiple Award Schedule)
____ 552.246–73 Warranty—Multiple Award Schedule
____ 552.246–76 Warranty of Pesticides

(End of clause)

552.212–72 Contract Terms and Conditions Required To Implement Statutes or Executive Orders Applicable to GSA Acquisition of Commercial Items.

As prescribed in 512.301(a)(3), insert the following clause:

Contract Terms and Conditions Required To Implement Statutes or Executive Orders Applicable to GSA Acquisition of Commercial Items (Sep 1999)

The Contractor agrees to comply with any provision or clause that is incorporated herein by reference to implement provisions of law or Executive Orders applicable to acquisition of commercial items or components. The provision or clause in effect based on the applicable regulation cited on the date the solicitation is issued applies unless otherwise stated herein. The following provisions and clauses are incorporated by reference:

[*The contracting officer should either check the provisions and clauses that apply or delete the provisions and clauses that do not apply from the list. The contracting officer may add the date of the provision or clause if desired for clarity.*]

(a) *Provisions.*

____ 552.223–72 Hazardous Material Information
____ 552.225–8 Buy American Act—Trade Agreements—Balance of Payments Program Certificate

(b) *Clauses.*

____ 552.223–70 Hazardous Substances
____ 552.223–71 Nonconforming Hazardous Material
____ 552.225–9 Buy American Act—Trade Agreements—Balance of Payments Program
____ 552.238–70 Identification of Electronic Office Equipment Providing Accessibility for the Handicapped
____ 552.238–72 Identification of Energy-Efficient Office Equipment and Supplies Containing Recovered Materials or Other Environmental Attributes
____ 552.238–76 Industrial Funding Fee

(End of clause)

552.212–73 Evaluation—Commercial Items (Multiple Award Schedule).

As prescribed in 512.301(a)(4), insert the following provision:

Evaluation—Commercial Items (Multiple Award Schedule) (Aug 1997)

(a) The Government may make multiple awards for the supplies or services offered in response to this solicitation that meet the definition of a ''commercial item'' in FAR 52.202–1. Awards may be made to those responsible offerors that offer reasonable pricing, conforming to the solicitation, and will be most advantageous to the

Government, taking into consideration the multiplicity and complexity of items of various manufacturers and the differences in performance required to accomplish or produce required end results, production and distribution facilities, price, compliance with delivery requirements, and other pertinent factors. By providing a selection of comparable supplies or services, ordering activities are afforded the opportunity to fulfill their requirements with the item(s) that constitute the best value and that meet their needs at the lowest overall cost.

(b) A written notice of award or acceptance of an offer, mailed or otherwise furnished to the offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

(End of provision)

Alternate I (AUG 1997). When anticipating competition of identical items, add the following paragraph after paragraph (b) of the basic provision.

(c) The Government reserves the right to award only one contract for all or a part of a manufacturer's product line. When two or more offerors (e.g., dealers/resellers) offer the identical product, award may be made competitively to only one offeror on the basis of the lowest price. (Discounts for early payment will not be considered as an evaluation factor in determining the low offeror). During initial open season for an option period, any offers that are equal to or lower than the current contract price received for identical items will be considered. Current contractors will also be allowed to submit offers for identical items during this initial open season. The current contractor which has the identical item on contract will be included in the evaluation process. The Government will evaluate all offers and may award only one contract for each specified product or aggregate group.

552.214–70 "All or None" Offers.

As prescribed in 514.201–6, insert the following provision:

"All or None" Offers (Sep 1999)

(a) Unless awards in the aggregate are specifically precluded in this solicitation, the Government reserves the right to evaluate offers and make awards on all "all or none" basis as provided below.

(b) An offer submitted on an "all or none" or similar basis will be evaluated as follows: The lowest acceptable offer exclusive of the "all or none" offer will be selected with respect to each item (or group of items when the solicitation provides for aggregate awards) and the total cost of all items thus determined shall be compared with the total of the lowest acceptable "all or none" offer. Award will be made to result in the lowest total cost to the Government.

(End of provision)

Alternate I (SEP 1999). For a requirements or indefinite quantity contract, the following paragraph (b) shall be substituted in the basic provision:

(b) An offer submitted on an "all or none" or similar basis will not be considered unless the offer is low on each item to which the "all or none" offer is made applicable. The term "each item" as used in this provision refers either to an item that under the terms of the solicitation may be independently awarded, or to a group of items on which an award is to be made in the aggregate.

552.214–71 Progressive Awards and Monthly Quantity Allocations.

As prescribed in 514.201–7(a), insert the following clause:

Progressive Awards and Monthly Quantity Allocations (Sep 1999)

(a) *Monthly quantity allocation.*

(1) Set forth below are the Government's estimated annual and monthly requirements for each stock item covered by this solicitation. Offerors shall indicate, in the spaces provided, the monthly quantity which they are willing to furnish of any item or group of items involving the use of the same production facilities. In making monthly allocations, offerors are urged to group as many items as possible. Such groupings will make it possible for the Government to make fullest use of the production capabilities of each offeror.

(2) Offerors need not limit their monthly allocations to the Government's estimated monthly requirements, since additional unanticipated needs may occur during the period of the contract. If an offeror does not insert monthly allocation quantities, it will be deemed to offer to furnish all of the Government's requirements, even though they may exceed the stated estimated requirements.

National stock number	Estimated annual requirements	Estimated monthly requirements

BIDDERS MONTHLY QUANTITY ALLOCATIONS

Items or groups of items	Monthly allocation quantity

(b) *Progressive awards.* If the low responsive offeror's monthly quantity allocation is less than the Government's estimated requirements, the Government may make progressive awards beginning with the low responsive offeror and including each next low responsive offeror to the extent necessary to meet the estimated requirements.

(c) *Ordering procedures.* If progressive awards are made, orders will be placed first with the Contractor offering the lowest price on each item normally up to that Contractor's maximum quantity allocation and then, in the same manner, successively to other Contractors. When cumulative orders during any month, placed with a lower priced Contractor, equal or exceed 95 percent of its monthly quantity allocation, to avoid the placement of unduly small orders or the splitting of a subsequent order, the Government reserves the right to award the full quantity of the subsequent order to the next lower priced Contractor. In no case will orders be placed with any Contractor in excess of its monthly quantity allocation.

(End of clause)

552.214–72 Bid Sample Requirements.

As prescribed in 514.202–4(a)(3), insert the following provision:

Bid Sample Requirements (Sep 1999)

This provision supplements FAR 52.214–20, which is incorporated by reference. Samples shall be from the production of the manufacturer whose products will be supplied under resultant contracts.

(a) Two bid samples are required for each of the following items in this solicitation:

(b) Two representative samples shall be submitted for each of the following items upon which a bid is submitted:

Items	Acceptable representative samples

Note:

(1) Bidders ☐ are or ☐ are not authorized to re-apply samples being retained by GSA in connection with previous solicitations and/or resultant contracts. When the block ''are'' is marked by the government, FAR 52.214–20, Alternate II, shall apply.

(2) Bidders who propose to furnish an item or group of items from more than one manufacturer or production point must submit two samples from the production of each manufacturer or production point.

(c) Samples will be evaluated to determine compliance with all characteristics listed below:

Subjective characteristics	Objective characteristics

(d) Forward samples addressed to the Sample Room indicated below. Except for samples delivered by U.S. Mail, deliveries will be accepted between the hours of _____ Mondays through Fridays, official holidays excluded.

Caution: Use proper address for method of shipment selected.

Mail and Parcel Post

(Insert Address of Bid Sample Room)

Freight or Express

(Insert address of Bid Sample Room)

(End of provision)

552.215–70 Examination of Records by GSA.

As prescribed in 514.201–7(b) and 515.209–70(a) insert the following clause:

Examination of Records by GSA (Feb 1996)

The Contractor agrees that the Administrator of General Services or any duly authorized representatives shall, until the expiration of 3 years after final payment under this contract, or of the time periods for the particular records specified in Subpart 4.7 of the Federal Acquisition Regulation (48 CFR 4.7), whichever expires earlier, have access to and the right to examine any books, documents, papers, and records of the Contractor involving transactions related to this contract or compliance with any clauses thereunder. The Contractor further agrees to include in all its subcontracts hereunder a provision to the effect that the subcontractor agrees that the Administrator of General Services or any authorized representatives shall, until the expiration of 3 years after final payment under the subcontract, or of the time periods for the particular records specified in Subpart 4.7 of the Federal Acquisition Regulation (48 CFR 4.7), whichever expires earlier, have access to and the right to examine any books, documents, papers, and records of such subcontractor involving transactions related to the subcontract or compliance with any clauses thereunder. The term ''subcontract'' as used in this clause excludes (a) purchase orders not exceeding $100,000 and (b) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

(End of clause)

552.215–71 Examination of Records by GSA (Multiple Award Schedule).

As prescribed in 515.209–70(c), insert the following clause:

Examination of Records by GSA (Multiple Award Schedule) (Aug 1997)

The Contractor agrees that the Administrator of General Services or any duly authorized representative shall have access to and the right to examine any books, documents, papers and records of the contractor involving transactions related to this contract for overbillings, billing errors, compliance with the Price Reduction clause and compliance with the Industrial Funding Fee clause of this contract. This authority shall expire 3 years after final payment. The basic contract and each option shall be treated as separate contracts for purposes of applying this clause.

(End of clause)

552.215–72 Price Adjustment—Failure to Provide Accurate Information.

As prescribed in 515.408(d), insert the following clause:

Price Adjustment—Failure To Provide Accurate Information (Aug 1997)

(a) The Government, at its election, may reduce the price of this contract or contract modification if the Contracting Officer determines after award of this contract or contract modification that the price negotiated was increased by a significant amount because the Contractor failed to:

(1) Provide information required by this solicitation/contract or otherwise requested by the Government; or

(2) Submit information that was current, accurate, and complete; or

(3) Disclose changes in the Contractor's commercial pricelist(s), discounts or discounting policies which occurred after the original submission and prior to the completion of negotiations.

(b) The Government will consider information submitted to be current, accurate and complete if the data is current, accurate and complete as of 14 calendar days prior to the date it is submitted.

(c) If any reduction in the contract price under this clause reduces the price for items for which payment was made prior to the date of the modification reflecting the price reduction, the Contractor shall be liable to and shall pay the United States—

(1) The amount of the overpayment; and

(2) Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective each quarter prescribed by the Secretary of Treasury under 26 U.S.C. 6621(a)(2).

(d) Failure to agree on the amount of the decrease shall be resolved as a dispute.

(e) In addition to the remedy in paragraph (a) of this clause, the Government may terminate this contract for default. The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this contract.

(End of Clause)

552.216–70 Economic Price Adjustment—FSS Multiple Award Schedule Contracts.

As prescribed in 516.203–4(a), insert the following clause:

Economic Price Adjustment—FSS Multiple Award Schedule Contracts (Sep 1999)

Price adjustments include price increases and price decreases. Adjustments will be considered as follows:

(a) Contractors shall submit price decreases anytime during the contract period in which they occur. Price decreases will be handled in accordance with the provisions of the Price Reduction Clause.

(b) Contractors may request price increases under the following conditions:

(1) Increases resulting from a reissue or other modification of the Contractor's commercial catalog/pricelist that was used as the basis for the contract award.

(2) Only three increases will be considered during the contract period.

(3) Increases are requested after the first 30 days of the contract period and prior to the last 60 days of the contract period.

(4) At least 30 days elapse between requested increases.

(c) The aggregate of the increases in any contract unit price under this clause shall not exceed _____* percent of the original contract unit price. The Government reserves the right to raise this ceiling where changes in market conditions during the contract period support an increase.

**Insert the percent appropriate at the time the solicitation is issued. This percentage should normally be 10 percent, unless based on a trend established by an appropriate index such as the Producer Prices and Price Index during the most recent 6-month period indicates that a different percentage is more appropriate. Any ceiling other than 10 percent must be approved by the contracting director.*

(d) The following material shall be submitted with the request for a price increase:

(1) A copy of the commercial catalog/pricelist showing the price increase and the effective date for commercial customers.

(2) Commercial Sales Practice format regarding the Contractor's commercial pricing practice relating to the reissued or modified catalog/price-list, or a certification that no change has occurred in the data since completion of the initial negotiation or a subsequent submission.

(3) Documentation supporting the reasonableness of the price increase.

(e) The Government reserves the right to exercise one of the following options:

(1) Accept the Contractor's price increases as requested when all conditions of (b), (c), and (d) of this clause are satisfied;

(2) Negotiate more favorable discounts from the new commercial prices when the total increase requested is not supported; or,

(3) Remove the product(s) from contract involved pursuant to the Cancellation Clause of this contract, when the increase requested is not supported.

(f) The contract modification reflecting the price adjustment shall be signed by the Government and made effective upon receipt of notification from the Contractor that the new catalog/pricelist has been mailed to the addresses previously furnished by the Contracting Officer, provided that in no event shall such price adjustment be effective prior to the effective date of the commercial price increases. The increased contract prices shall apply to delivery orders issued to the Contractor on or after the effective date of the contract modification.

(End of clause)

**Insert the percent appropriate at the time the solicitation is issued. This percentage should normally be 10 percent, unless based on a trend established by an appropriate index such as the Producer Prices and Price Index during the most recent 6-month period indicates that a different percentage is more appropriate. Any ceiling other than 10 percent must be approved by the contracting director.*

Alternate I (SEP 1999). The following is substituted for paragraphs (b) and (c) of the clause:

(b) Contractors may request price increases to be effective on or after the first 12 months of the contract period providing all of the following conditions are met:

(1) Increases resulting from a reissue or other modification of the Contractor's commercial catalog/pricelist that was used as the basis for the contract award.

(2) No more than three increases will be considered during each succeeding 12-month period of the contract. (For succeeding contract periods of less than 12 months, up to three increases will be considered subject to the other conditions of this subparagraph (b)).

(3) Increases are requested before the last 60 days of the contract period.

(4) At least 30 days elapse between requested increases.

(c) In any contract period during which price increases will be considered, the aggregate of the increases during any 12-month period shall not exceed *_____ percent of the contract unit price in effect at the end of the preceding 12-month period. The Government reserves the right to raise the ceiling when market conditions during the contract period support such a change.

**Insert the percentage appropriate at the time the solicitation is issued. This percentage should be determined based on the trend established by an appropriate index such as the Producer Prices and Price Index. A ceiling of more than 10 percent must be approved by the Contracting Director.*

552.216–71 Economic Price Adjustment—Stock and Special Order Program Contracts.

As prescribed in 516.203–4(b), insert the following clause:

Economic Price Adjustment-Stock and Special Order Program Contracts (Sep 1999)

(a) ''Producer Price Index'' (PPI), as used in this clause, means the originally released index, not seasonally adjusted, published by the Bureau of Labor Statistics, U.S. Department of Labor (Labor) for product code _____ found under Table _____.

(b) During the term of the contract, the award price may be adjusted once upward or downward a maximum of *_____ percent. Any price adjustment for the product code shall be based upon the percentage change in the PPI released in the month prior to the initial month of the contract period specified in the solicitation for sealed bidding or the month prior to award in negotiation (the base index) and the PPI released 12 months later (the updated index). The formula for determining the Adjusted Contract Price (ACP) applicable to shipments for the balance of the contract period is-

$$ACP = \frac{\text{Updated Index}}{\text{Base Index}} \times \text{Award Price}$$

(c) If the PPI is not available for the month of the base index or the updated index, the month with the most recently published PPI prior to the month determining the base index or updated index shall be used.

(d) If a product code is discontinued, the Government and the Contractor will mutually agree to substitute a similar product code. If Labor designates an index with a new title and/or code number as continuous with the product code specified above, the new index shall be used.

(e) Unless the Contractor's written request for a price adjustment resulting from the application of the formula in (b) above is received by the Contracting Officer within 30 calendar days of the release of the updated index, the Contractor shall have waived its right to an upward price adjustment for the balance of the contract. Alternatively, the Contracting Officer will unilaterally adjust the award price downward when appropriate using the updated index defined in (b) above.

(f) Price adjustments shall be effective upon execution of a contract modification by the Government or on the 31st day following the release of the updated index, whichever is later, shall indicate the updated index and percent of change as well as the ACP, and shall not apply to delivery orders issued before the effective date.

(End of clause)

Alternate I (SEP 1999). As prescribed in 516.203–4(b) (1) and (2), substitute the following paragraphs (b), (e) and (f) for paragraphs (b), (e) and (f) of the basic clause:

(b) In any option period, the contract price may be adjusted upward or downward a maximum of *_____ percent.

(1) For the first option period, any price adjustment for the product code shall be based upon the percentage change in the PPI released in the month prior to the initial month of the contract period specified in the solicitation for sealed bidding or the month prior to award in negotiation (the base index) and the PPI released in the third month before completion of the initial contract period stated in the solicitation (the updated index). This initial contract period may be less than 12 months. The formula for determining the Adjusted Contract Price (ACP) applicable to shipments during the first option period is—

$$ACP = \frac{\text{Updated Index}}{\text{Base Index}} \times \text{Award Price}$$

(2) For any subsequent option period, the price adjustment shall be the percentage change between the previously updated index (the new base index) and the PPI released 12 months later (the most recent updated index). This percentage shall be applied to the Current Contract Price (CCP). The formula for determining the ACP applicable to shipments for the subsequent option period(s) is—

$$ACP = \frac{\text{Most Recent Updated Index}}{\text{New Base Index}} \times CCP$$

(e) Unless the Contractor's written request for a price adjustment resulting from the application of the formulas in (b) (1) or (2) above is received by the Contracting Officer within 30 calendar days of the date of the Government's preliminary written notice of its intent to exercise the option, the Contractors shall have waived its right to an upward price adjustment for that option period. Alternatively, the Contracting Officer in its written notice shall exercise the option at the CCP or at a reduced price when appropriate using the formulas in (b) (1) or (2) above.

(f) Price adjustments shall be effected by execution of a contract modification by the Government indicating the most recent updated index and percent of change and shall apply to delivery orders placed on or after the first day of the option period.

Alternate II (SEP 1999). As prescribed in 516.203–4(b)(2), add the following paragraph (g) to the basic clause.

(g) No price adjustment will be made unless the percentage in the PPI is at least **____ percent.

**The appropriate percentage should be determined based upon the historical trend in the PPI for the product code. A ceiling of more than 10 percent must be approved by the Contracting Director.*

***The Contracting Officer should insert a lower percent than the maximum percentage stated in paragraph (b) of the clause.*

552.216–72 Placement of Orders.

As prescribed in 516.506, inset the following clause:

Placement of Orders (Sep 1999)

(a) Delivery orders (orders) will be placed by:

[*Contracting Officer insert names of Federal agencies*]

(b) Orders may be placed through Electronic Data Interchange (EDI) or mailed in paper form. EDI orders shall be placed using the American National Standards Institute (ANSI) X12 Standard for Electronic Data Interchange (EDI) format.

(c) If the Contractor agrees, GSA's Federal Supply Service (FSS) will place all orders by EDI using computer-to-computer EDI. If computer-to-computer EDI is not possible, FSS will use an alternative EDI method allowing the Contractor to receive orders by facsimile transmission. Subject to the Contractor's agreement, other agencies may place orders by EDI.

(d) When computer-to-computer EDI procedures will be used to place orders, the Contractor shall enter into one or more Trading Partner Agreements (TPA) with each Federal agency placing orders electronically in order to ensure mutual understanding by the parties of certain electronic transaction conventions and to recognize the rights and responsibilities of the parties as they apply to this method of placing orders. The TPA must identify, among other things, the third party provider(s) through which electronic orders are placed, the transaction sets used, security procedures, and guidelines for implementation. Federal agencies may obtain a sample format to customize as needed from the office specified in (g) below.

(e) The Contractor shall be responsible for providing its own hardware and software necessary to transmit and receive data electronically. Additionally, each party to the TPA shall be responsible for the costs associated with its use of third party provider services.

(f) Nothing in the TPA will invalidate any part of this contract between the Contractor and the General Services Administration. All terms and conditions of this contract that otherwise would be applicable to a mailed order shall apply to the electronic order.

(g) The basic content and format of the TPA will be provided by:

General Services Administration, Acquisition Operations and Electronic Commerce Center (FCS), Washington, DC 20406

Telephone: [Contracting officer insert appropriate telephone numbers]

FAX:

(End of clause)

Alternate I (SEP 1999). As prescribed in 516.506, substitute the following paragraphs (a), (b), (c), and (d) for paragraphs (a), (b), (c), and (d) of the basic clause:

(a) All delivery orders (orders) under this contract will be placed by the General Services Administration's Federal Supply Service (FSS). The Contractor is not authorized to accept orders from any other agency. Violation of this restriction may result in termination of the contract pursuant to the default clause of this contract.

(b) All orders shall be placed by Electronic Data Interchange (EDI) using the American National Standards Institute (ANSI) X12 Standard for Electronic Data Interchange (EDI) format.

(c) If the Contractor agrees, transmission will be computer-to-computer EDI. If computer-to-computer EDI is not possible, FSS will use an alternative EDI method allowing the Contractor to receive orders by facsimile transmission.

(d) When computer-to-computer EDI procedures will be used to place orders, the Contractor shall enter into a Trading Partner Agreement (TPA) with FSS in order to ensure mutual understanding by the parties of certain electronic transaction conventions and to recognize the rights and responsibilities of the parties as they apply to this method of placing orders. The TPA must identify among other things, the third party provider(s) through which electronic orders are placed, the transaction sets used, security procedures, and guidelines for implementation.

Alternate II (SEP 1999). As prescribed in 516.506(c), substitute the following paragraph (a) for paragraph (a) of the basic clause:

(a) The organizations listed below may place orders under this contract. Questions regarding organizations authorized to use this schedule should be directed to the Contracting Officer.

(1) Executive agencies.

(2) Other Federal agencies.

(3) Mixed-ownership Government corporations.

(4) The District of Columbia.

(5) Government contractors authorized in writing by a Federal agency pursuant to 48 CFR 51.1.

(6) Other activities and organizations authorized by statute or regulation to use GSA as a source of supply.

552.216–73 Ordering Information.

As prescribed in 516.506(c), insert the following provision:

Ordering Information (Sep 1999)

(a) In accordance with the Placement of Orders clause of this solicitation, the offeror elects to receive orders placed by GSA's Federal Supply Service (FSS) by either ☐ facsimile transmission or ☐ computer-to-computer Electronic Data Interchange (EDI).

(b) An offeror electing to receive computer-to-computer EDI is requested to indicate below the name, address, and telephone number of the representative to be contacted regarding establishment of an EDI interface.

_____

_____

_____

(c) An offeror electing to receive orders by facsimile transmission is requested to indicate below the telephone number(s) for facsimile transmission equipment where orders should be forwarded.

_____

_____

_____

(d) For mailed orders, the offeror is requested to include the postal mailing address(es) where paper form orders should be mailed.

_____

_____

_____

(End of provision)

Alternate I (SEP 1999). As prescribed in 516.506(b), delete paragraph (d) of the basic provision.

Alternate II (SEP 1999). As prescribed in 516.506(b), add paragraph (e) to the basic provision.

(e) Offerors marketing through dealers are requested to indicate below whether those dealers will be participating in the proposed contract.

Yes ( ) No ( )

If ''yes'' is checked, ordering information to be inserted above shall reflect that in addition to offeror's name, address, and facsimile transmission telephone number, orders can be addressed to the offeror's name, c/o nearest local dealer. In this event, two copies of a list of participating dealers shall accompany this offer, and shall also be included in Contractor's Federal Supply Schedule pricelist.

552.217–70 Evaluation of Options.

As prescribed in 517.208(a), insert the following provision:

Evaluation of Options (Aug 1990)

(a) The Government will evaluate offers for award purposes by determining the lowest base period price. When option year pricing is based on a formula (e.g., changes in the Producer Price Index or other common standard); option year pricing is automatically' considered when evaluating the base year price, as any change in price will be uniformly related to changes in market conditions. All options are therefore considered to be evaluated. Evaluation of options will not obligate the Government to exercise the option(s).

(b) The Government will reject the offer if exceptions are taken to the price provisions of the Economic Price Adjustment clause, unless the exception results in a lower maximum option year price. Such offers will be evaluated without regard to the lower option year(s) maximum. However, if the offeror offering a lower maximum is awarded a contract, the award will reflect the lower maximum.

552.217–71 Notice Regarding Option(s).

As prescribed in 517.208(b), insert the following provision:

Notice Regarding Option(s) (Nov 1992)

The General Services Administration (GSA) has included an option to [*Insert ''purchase additional quantities of supplies or services'' or ''extend the term of this contract'' or ''purchase additional quantities of supplies or services and to extend the term of this contract''*] in order to demonstrate the value it places on quality performance by providing a mechanism for continuing a contractual relationship with a successful Offeror that performs at a level which meets or exceeds GSA's quality performance expectations as communicated to the Contractor, in writing, by the Contracting Officer or designated representative. When deciding whether to exercise the option, the Contracting Officer will consider the quality of the Contractor's past performance under this contract in accordance with 48 CFR 517.207.

(End of provision)

552.219–70 Allocation of Orders—Partially Set-aside Items.

As prescribed in 519.508, insert the following clause:

Allocation of Orders—Partially Set-Aside Items (Sep 1999)

Where the set-aside portion of an item or group of items is awarded to a Contractor other than the one receiving the award on the corresponding non-set-aside portion, the Government will divide the requirements to be ordered between the two Contractors with the objective of achieving, as nearly as possible, a 50/50 division of the total value of orders placed after the award of the set-aside portion. In no case will this division vary by more than a 60/40 division (with either the non-set-aside or set-aside Contractor receiving the larger portion) from the time of the award of the set-aside portion.

(End of clause)

552.219–71 Notice to Offerors of Subcontracting Plan Requirements.

As prescribed in 519.708, insert the following provision:

Notice to Offerors of Subcontracting Plan Requirements (Sep 1999)

The General Services Administration (GSA) is committed to assuring that maximum practicable opportunity is provided to small, HUBZone small, small disadvantaged, and women-owned small business concerns to participate in the performance of this contract consistent with its efficient performance. GSA expects any subcontracting plan submitted pursuant to FAR 52.219–9, Small Business Subcontracting Plan, to reflect this commitment. Consequently, an offeror, other than a small business concern, before being awarded a contract exceeding $500,000 ($1,000,000 for construction), must demonstrate that its subcontracting plan represents a creative and innovative program for involving small, HUBZone small, small disadvantaged, and women-owned small business concerns as subcontractors in the performance of this contract.

(End of provision)

552.219–72 Preparation, Submission, and negotiation of Subcontracting Plans.

As prescribed in 519.708(b), insert the following provision:

Preparation, Submission, and Negotiation of Subcontracting Plans (Sep 1999)

(a) An offeror, other than a small business concern, submitting an offer that exceeds $500,000 ($1,000,000 for construction) shall submit a subcontracting plan with its initial offer. The subcontracting plan will be negotiated concurrently with price and any required technical and management proposals, unless the offeror submits a previously-approved commercial products plan.

(b) Maximum practicable utilization of small, HUBZone small, small disadvantaged, and women-owned small business concerns as subcontractors is a matter of national interest with both social and economic benefits. The General Services Administration (GSA) expects that an offeror's subcontracting plan will reflect a commitment to assuring that small, HUBZone small, small disadvantaged, and women-owned small business concerns are provided the maximum practicable opportunity, consistent with efficient contract performance, to participate as subcontractors in the performance of the resulting contract. An offeror submitting a commercial products plan can reflect this commitment through subcontracting opportunities it provides that relate to the offeror's production generally; i.e., for both its commercial and Government business.

(c) GSA believes that this potential contract provides significant opportunities for the use of small, HUBZone small, small disadvantaged, and women-owned small business concerns as subcontractors. Consequently, in addressing the eleven elements described at FAR 52.219–9(d) of the clause in this contract entitled Small Business Subcontracting Plan, the offeror shall:

(1) Demonstrate that its subcontracting plan represents a creative and innovative program for involving small, HUBZone small, small disadvantaged, and women-owned small business concerns in performing the contract.

(2) Include a description of the offeror's subcontracting strategies used in any previous contracts, significant achievements, and how this plan will build upon those earlier achievements.

(3) Demonstrate through its plan that it understands the small business subcontracting program's objectives and GSA's expectations, and it is committed to taking those actions necessary to meet these goals or objectives.

(d) In determining the acceptability of any subcontracting plan, the Contracting Officer will take each of the following actions:

(1) Review the plan to verify that the offeror demonstrates an understanding of the small business subcontracting program's objectives and GSA's expectations with respect to the program and has included all the information, goals, and assurances required by FAR 52.219–9.

(2) Consider previous goals and achievements of contractors in the small industry.

(3) Consider information and potential sources obtained from agencies administering national and local preference programs and other advocacy groups in evaluating whether the goals stated in the plan adequately reflect the anticipated potential for subcontracting to small, HUBZone small, small disadvantaged, and women-owned small business concerns.

(4) Review the offeror's description of its strategies, historical performance and significant achievements in placing subcontracts for the same or similar products or services with small, HUBZone small, small disadvantaged, and women-owned small business concerns. The offeror's description can apply to commercial as well as previous Government contracts.

(e) Failure to submit an acceptable subcontracting plan and/or correct deficiencies in a plan within the time specified by the Contracting Officer shall make the offeror ineligible for award.

(End of provision)

552.219–73 Goals for Subcontracting Plan.

As prescribed in 519.708(c), insert the following provision:

Goals for Subcontracting Plan (Sep 1999)

(a) Maximum practicable utilization of small, HUBZone small, small disadvantaged, and women-owned small business concerns as subcontractors is a matter of national interest with both social and economic benefits.

(1) The General Service Administration's (GSA's) commitment to ensuring that maximum practicable opportunity is provided to small, HUBZone small, small disdvantaged, and women-owned small business concerns to participate as subcontractors in the performance of this contract, consistent with its efficient performance, must be reflected in the offeror's subcontracting plan submitted pursuant to the clause of this contract at FAR 52.219–9, Small Business Subcontracting Plan.

(2) In addressing the eleven elements described at FAR 52.219–9(d), the offeror shall demonstrate that its subcontracting plan represents a creative and innovative program for involving small, HUBZone small, small disadvantaged, and women-owned small business concerns in performing this contract. An offeror submitting a commercial products plan can demonstrate its commitment in providing maximum practicable opportunities through subcontracting opportunities it provides to small, HUBZone small, small disadvantaged, and women-owned small business concerns that relate to the offeror's production generally; i.e., for both its commercial and Government business.

(3) The subcontracting plan shall include a description of the offeror's subcontracting strategies used in previous contracts and significant achievements, with an explanation of how this plan will build upon those earlier achievements. Additionally, the offeror shall demonstrate through its plan

that it understands the small business subcontracting program's objectives, GSA's expectations, and is committed to taking those actions necessary to meet these goals or objectives.

(b) GSA believes that this contract provides significant opportunities for the use of small, HUBZone small, small disadvantaged, and women-owned small business concerns as subcontractors. Accordingly, it is anticipated that an acceptable subcontracting plan will contain at least the following goals:

Small Business	_____ percent.
HUBZone Small Business	_____ percent.
Small Disadvantaged Business.	_____ percent.
Women-Owned Small Business.	_____ percent.

Note: Target goals are expressed as a percentage of planned subcontracting dollars.

(c) In determining the acceptability of any subcontracting plan, the Contracting Officer will—

(1) Review the plan to verify that the offeror has demonstrated an understanding of the small business subcontracting program's objectives and GSA's expectations with respect to the programs and has included all the information, goals, and assurances required by FAR 52.219–9;

(2) Consider previous goals and achievements of contractors in the same industry;

(3) Consider information and potential sources obtained from agencies administering national and local preference programs and other advocacy groups in evaluating whether the goals stated in the plan adequately reflect the anticipated potential for subcontracting to small, HUBZone small, small disadvantaged, and women-owned small business concerns; and

(4) Review the offeror's description of its strategies, historical performance and significant achievements in placing subcontracts for the same or similar products or services with small, HUBZone small, small disadvantaged, and women-owned small business concerns. The offeror's description can apply to commercial as well as previous Government contracts.

(d) Failure to submit an acceptable subcontracting plan and/or correct deficiencies in a plan within the time specified by the Contracting Officer shall make the offeror ineligible for award.

(End of provision)

Alternate I (SEP 1999). As prescribed in 519.708(c)(2), delete paragraph (b) of the basic provision and redesignate paragraphs (c) and (d) as paragraphs (b) and (c).

552.219–74 Section 8(a) Direct Award.

As prescribed in 519.870–8, insert the following clause:

Section 8(a) Direct Award (Sep 1999)

(a) This contract is issued as a direct award between the contracting activity and the 8(a) Contractor pursuant to the Memorandum of Understanding between the Small Business Administration (SBA) and the General Services Administration. SBA retains the responsibility for 8(a) certifications, 8(a) eligibility determinations, and related issues, and will provide counseling and assistance to the 8(a) contractor under the 8(a) program. The cognizant SBA district office is:

[*Complete at time of award*]

(b) The contracting activity is responsible for administering the contract and taking any action on behalf of the Government under the terms and conditions of the contract. However, the contracting activity shall give advance notice to SBA before it issues a final notice terminating performance, either in whole or in part, under the contract. The contracting activity shall also coordinate with SBA prior to processing any advance payments or novation agreements. The contracting activity may assign contract administration functions to a contract administration office.

(c) The Contractor agrees:

(1) To notify the Contracting Officer, simultaneous with its notification to SBA (as required by SBA's 8(a) regulations), when the owner or owners upon whom 8(a) eligibility is based plan to relinquish ownership or control of the concern. Consistent with 15 U.S.C. 637(a)(21), transfer of ownership or control shall result in termination of the contract for convenience, unless SBA waives the requirement for termination prior to the actual relinquishing of ownership and control.

(2) To the requirements of 52.219–14, Limitations on Subcontracting.

(End of clause)

552.223–70 Hazardouis Substances.

As prescribed in 523.303(a), insert the following clause:

Hazardous Substances (May 1989)

(a) If the packaged items to be delivered under this contract are of a hazardous substance and ordinarily are intended or considered to be for use as a household item, this contract is subject to the Federal Hazardous Materials Act, as amended (15 U.S.C. 1261–1276), implementing regulations thereof (16 CFR Chapter II), and Federal Standard No. 123, Marking for Shipment (Civil Agencies), issue in effect on the date of this solicitation.

(b) The packaged items to be delivered under this contract are subject to the preparation of shipping documents, the preparation of items for transportation, shipping container construction, package making, package labeling, when required, shipper's certification of compliance, and transport vehicle placarding in accordance with Parts 171 through 178 of 49 CFR and the Hazardous Materials Transportation Act.

(c) The minimum packaging acceptable for packaging Department of Transportation regulated hazardous materials shall be those in 49 CFR 173.

(End of clause)

552.223–71 Nonconforming Hazardous Materials.

As prescribed in 523.303(b), insert the following clause:

Nonconforming Hazardous Materials (Sep 1999)

(a) Nonconforming supplies that contain hazardous material or that may expose persons who handle or transport the supplies to hazardous material and which require replacement under the inspection and/or warranty clauses of this contract shall be reshipped to the Contractor at the Contractor's expense. The Contractor agrees to accept return of these nonconforming supplies and to pay all costs occasioned by their return.

(b) ''Hazardous materials,'' as used in this clause, includes any material defined as hazardous under the latest version of Federal Standard No. 313 (including revisions adopted during the term of the contract).

(c) If the Contractor fails to provide acceptable disposition instructions for the nonconforming supplies within 10 days from the date of the Government's request (or such longer period as may be agreed to between the Contracting Officer and the Contractor), or fails to accept return of the reshipped nonconforming supplies, such failure:

(1) may be interpreted as a willful failure to perform,

(2) may result in termination of the contract for default and

(3) shall be considered by the Contracting Officer in determining the responsibility of the Contractor for any future award (see FAR 9.104–3(b) and 9.406–2).

(d) Pending final resolution of any dispute, the Contractor shall promptly comply with the decision of the Contracting Officer.

(End of clause)

552.223–72 Hazardous Material Information.

As prescribed in 523.370, insert the following provision:

Hazardous Material Information (Sep 1999)

Offeror shall indicate for each national stock number (NSN) the following information:

NSN	DOT shipping name	DOT hazard class	DOT label required
			Yes [ ] No [ ] Yes [ ] No [ ] Yes [ ] No [ ]

(End of provision)

552.225–8 Buy American Act—Trade Agreements—Balance of Payments Program Certificate.

As prescribed in 525.408, insert the following provision:

Buy American Act—Trade Agreements—Balance of Payments Program Certificate (Sep 1999) (Deviation FAR 52.225–8)

(a) The Offeror, by signing this offer, certifies that each end product to be delivered under this contract is a U.S. made end product, a designated country end product, a Caribbean Basin country end product, a Canadian end product or a Mexican end product as defined in the clause entitled ''Buy American Act—Trade Agreements—Balance of Payments Program'' at 48 CFR 552.225–9.

(b) Offers will be evaluated in accordance with Subpart 25.4 of the Federal Acquisition Regulation except that offers of U.S. made end products, designated country end products, Caribbean Basin end products, Canadian end products, or Mexican end products shall be evaluated without the restrictions of the Buy American Act or the Balance of Payments Program.

(End of provision)

552.225–9 Buy American Act—Trade Agreements—Balance of Payments Program.

As prescribed in 525.408, insert the following clause.

Buy American Act—Trade Agreements—Balance of Payments Program (SEP 1999) (Deviation FAR 52.225–9)

(a) This clause implements the Trade Agreements Act of 1979 (19 U.S.C. 2501–2582) by providing a preference for U.S. made end products, designated country end products, Caribbean Basin country end products, Canadian end products or Mexican end products over other products.

''Caribbean Basin country end products,'' as used in this clause, means an article that: (1) is wholly the growth, product, or manufacture of a Caribbean Basin country (as defined in section 25.401 of the Federal Acquisition Regulation (FAR)), or (2) in the case of an article which consists in whole or in part of materials from another country or instrumentality, has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed. The term includes services (except transportation services) incidental to its supply; provided that the value of those incidental services does not exceed that of the product itself. It does not include service contracts as such. The term excludes products that are excluded from duty free treatment from Caribbean countries under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)). These exclusions presently consist of (i) textiles and apparel articles that are subject to textile agreements; (ii) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel not designated as eligible articles for the purpose of the Generalized System of Preference under title V of the Trade Act of 1974; (iii) tuna, prepared or preserved in any manner in airtight containers, (iv) petroleum, or any product derived from petroleum; and (v) watches and watch parts (including cases, bracelets and straps) of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material that is the product of any country to which the Tariff Schedule of the United States (TSUS) column 2 rates of duty apply.

''Designated country end product,'' as used in this clause, means an article that (1) is wholly the growth, product, or manufacture of the designated country (as defined in section 25.401 of the Federal Acquisition Regulation (FAR)), or (2) in the case of an article which consists in whole or in part of materials from another country or instrumentality, has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed. The term includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed that of the product itself. It does not include service contracts as such.

''Canadian end product,'' as used in this clause, means an article that (1) is wholly the growth, product, or manufacture of Canada, or (2) in the case of an article which consists in whole or in part of materials from another country or instrumentality, has been substantially transformed in Canada into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term includes services (except transportation services) incidental to its supply; provided, that the value of those incidental services does not exceed that of the product itself. It does not include service contracts as such.

''Mexican end product,'' as used in this clause, means an article that (1) is wholly the growth, product, or manufacture of Mexico, or (2) in the case of an article which consists in whole or in part of materials from another country or instrumentality, has been substantially transformed in Mexico into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed. The term includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed that of the product itself. It does not include service contracts as such.

''End products,'' as used in this clause, means those articles, materials, and supplies to be acquired under this contract for public use.

''U.S. made end product,'' as used in this clause, means an article which (1) is wholly the growth, product, or manufacture of the United States, or (2) in the case of an article which consists in whole or in part of materials from another country or instrumentality, has been substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

''Nondesignated country end products,'' as used in this clause, means any end product which is not a U.S. made end product, designated country end product, Caribbean Basin Country end product, Canadian end product or Mexican end product.

''United States,'' as used in this clause, means the United States, its possessions, Puerto Rico, and any other place which is subject to its jurisdiction, but does not include leased bases or trust territories.

(b) The Contractor agrees to deliver under this contract only U.S. made end products, designated country end products, Caribbean Basin country end products, Canadian end products or Mexican end products or, if a national interest waiver is granted under section 302 of the Trade Agreements Act of 1979, nondesignated country end products. Only if such waiver is granted may a nondesignated country end product be delivered under the contract(s).

(c) Offers will be evaluated in accordance with the policies and procedures of Part 25 of the FAR except that offers of U.S. made end products, designated country end products, Caribbean Basin end products, Canadian end products or Mexican end products shall be evaluated without the restrictions of the Buy American Act or the Balance of Payments Program.

(End of clause)

552.225–70 Notice of Procurement Restriction—Hand or Measuring Tools or Stainless Steel Flatware.

As prescribed in 525.109, insert the following clause:

Notice of Procurement Restriction—Hand or Measuring Tools or Stainless Steel Flatware (Sep 1999)

(a) Awards under this solicitation will only be made to offerors that will furnish hand or measuring tools or stainless steel flatware that are domestic end products. Pursuant to the requirements of the current Department of Defense Appropriations Act, GSA has determined, in accordance with Section 6–104.4 of the Armed Services Procurement Regulation (6/15/70)(32 CFR 6–104.4), that it is in the national interest to reject foreign products.

As used in this clause, a ''domestic end product'' is—

(1) Any hand or measuring tool, except for an electric or air-motor driven hand tool, or stainless steel flatware, wholly produced or manufactured, including all components, in the United States or its possessions; or

(2) Any electric or air-motor driven hand tool if the cost of its components produced or manufactured in the United States exceeds 75 percent of the cost of all its components.

(b) Tool kits or sets, being procured under this solicitation, will not be considered domestic end products if any individual tool classified in FSC Group 51 or 52 and included in a tool kit or set is not a domestic end product as defined in paragraph (a) of this clause. The restrictions of this clause do not apply to individual hand or measuring tools that are contained in the tool kit or set but are not classified in FSC Group 51 or 52.

(End of clause)

552.227–70 Government Rights (Unlimited).

As prescribed in 527.409, insert the following clause:

Government Rights (Unlimited) (May 1989)

The Government shall have unlimited rights in all drawings, designs, specifications, notes and other works developed in the performance of this contract, including the right to use same on any other Government design or construction without additional compensation to the Contractor. The Contractor hereby grants to the Government a paid-up license throughout the world to all such works to which he may assert or establish any claim under design patent or copyright laws. The Contractor for a period of three years after completion of the project agrees to furnish the original or copies of all such works on the request of the Contracting Officer.

(End of clause)

552.227–71 Drawings and Other Data to Become Property of Government.

As prescribed in 527.409(b), substitute the following clause:

Drawings and Other Data to Become Property of Government (May 1989)

All designs, drawings, specifications, notes and other works developed in the performance of this contract shall become the sole property of the Government and may be used on any other design or construction without additional compensation to the Contractor. The Government shall be considered the ''person for whom the work was prepared'' for the purpose of authorship in any copyrightable work under Section 201(b) of Title 17, United States Code. With respect thereto, the Contractor agrees not to assert or authorize others to assert any rights nor establish any claim under the design patent or copyright laws. The Contractor for a period of three years after completion of the project agrees to furnish all retained works on the request of the Contracting Officer. Unless otherwise provided in this contract, the Contractor shall have the right to retain copies of works beyond such period.

(End of clause)

552.228–70 Workers' Compensation Laws.

As prescribed in 528.310(a), insert the following clause:

Workers' Compensation Laws (Sep. 1999)

The Act of June 25, 1936, 49 Stat. 1938 (40 U.S.C. 290) authorizes the constituted authority of the several States to apply their workers' compensation laws to all lands and premises owned or held by the United States.

(End of clause)

552.229–70 Federal, State, and Local Taxes.

As prescribed in 529.401–70, insert the following clause:

Federal, State, and Local Taxes (Apr 1984)

The contract price includes all applicable Federal, State, and local taxes. No adjustment will be made to cover taxes which may subsequently be imposed on this transaction or changes in the rates of currently applicable taxes. However, the Government will, upon the request of the Contractor, furnish evidence appropriate to establish exemption from any tax from which the Government is exempt and which was not included in the contract price.

(End of clause)

552.229–71 Federal Excise Tax—DC Government.

As prescribed in 529.401–71, insert the following clause:

Federal Excise Tax—DC Government (Sep 1999)

If the District of Columbia cites an Internal Revenue Tax Exempt Certificate Number on orders placed under this contract, the Contractor shall bill shipments to the District of Columbia at prices exclusive of Federal excise tax and show the amount of such tax on the invoice.

(End of clause)

552.232–1 Payments.

As prescribed in 532.7104, insert the following clause:

Payments (Apr 1984) (Deviation FAR 52.232–1)

(a) The Government shall pay the Contractor, without submission of invoices or vouchers, 30 days after the service period, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract.

(b) Unless otherwise specified in this contract, the Government will make payment on partial deliveries accepted by the Government if either:

(1) The amount due on the deliveries warrants it.

(2) The Contractor requests it and the amount due on the deliveries is at least $1,000 or 50 percent of the total contract price.

(c) When processing payment, GSA's Finance Office will automatically generate the 12 digit invoice number using the ACT number assigned to the contract, followed by an abbreviated month and year of service (e.g., 84261554JUN7, for June 1997). The ACT number appears on the contract award document.

(End of clause)

552.232–8 Discounts for Prompt Payment.

As prescribed in 532.206, insert the following clause:

Discounts for Prompt Payment (Apr 1989) (Deviation FAR 52.232–8)

(a) Discounts for early payment (hereinafter referred to as ''discounts'' or ''the discount'') will be considered in evaluating the relationship of the offeror's concessions to the Government vis-a-vis the offeror's concessions to its commercial customers, but only to the extent indicated in this clause.

(b) Discounts will not be considered to determine the low offeror in the situation described in the ''Offers on Identical Products'' provision of this solicitation.

(c) Uneconomical discounts will not be considered as meeting the criteria for award established by the Government. In this connection, a discount will be considered uneconomical if the annualized rate of return for earning the discount is lower than the ''value of funds'' rate established by the Department of the Treasury and published quarterly in the **Federal Register**. The ''value of funds'' rate applied will be the rate in effect on the date specified for the receipt of offers.

(d) Agencies required to use the resultant schedule will not apply the discount in determining the lowest delivered price pursuant to the FPMR, 41 CFR 101–26.408, if the agency determines that payment will probably not be made within the discount period offered. The same is true if the discount is considered uneconomical at the time of placement of the order.

(e) Discounts for early payment may be offered either in the original offer or on individual invoices submitted under the resulting contract. Discounts offered will be taken by the Government if payment is made within the discount period specified.

(f) Discounts that are included in offers become a part of the resulting contracts and are binding on the Contractor for all orders placed under the contract. Discounts offered only on individual invoices will be binding on the Contractor only for the particular invoice on which the discount is offered.

(g) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the date on which an electronic funds transfer was made.

(End of clause)

552.232–23 Assignment of Claims.

As prescribed in 532.806, insert the following clause:

Assignment of Claims (Sep 1999)

Because this is a requirements or indefinite quantity contract under which more than one agency may place orders, paragraph (a) of the Assignment of Claims clause (FAR 52.232–23) is inapplicable and the following is substituted therefor:

In order to prevent confusion and delay in making payment, the Contractor shall not assign any claim(s) for amounts due or to become due under this contract. However, the Contractor is permitted to assign separately to a bank, trust company, or other financial institution, including any Federal lending agency, under the provisions of the Assignment of Claims Act, as amended, 31 U.S.C. 3727, 41 U.S.C. 15 (hereinafter referred to as ''the Act''), all amounts due or to become due under any order amounting to $1,000 or more issued by any Government agency under this contract. Any such assignment takes effect only if and when the assignee files written notice of the assignment together with a true copy of the instrument of assignment with the contracting officer issuing the order and the

finance office designated in the order to make payment. Unless otherwise stated in the order, payments to an assignee of any amounts due or to become due under any order assigned may, to the extent specified in the Act, be subject to reduction or set-off.

(End of clause)

552.232–25 Prompt Payment.

As prescribed in 532.908(a)(2), insert the following clause:

Prompt Payment (Jul 1998) (Deviation FAR 52.232–25)

Notwithstanding any other payment clause in this contract, the Government will make invoice payments and contract financing payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or the date of an electronic funds transfer. Definitions of pertinent terms are set forth in section 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see subparagraph (a)(4) of this clause concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) Invoice payments.

(1) The due date for making invoice payments by the designated payment office is:

(i) For orders placed electronically by the General Services Administration (GSA) Federal Supply Service (FSS), and to be paid by GSA through electronic funds transfer (EFT), the later of the following two events:

(A) The 10th day after the designated billing office receives a proper invoice from the Contractor. If the designated billing office fails to annotate the invoice with the date of receipt at the time of receipt, the invoice payment due date shall be the 10th day after the date of the Contractor's invoice; provided the Contractor submitted a proper invoice and no disagreement exists over quantity, quality, or Contractor compliance with contract requirements.

(B) The 10th day after Government acceptance of supplies delivered or services performed by the Contractor.

(ii) For all other orders, the later of the following two events:

(A) The 30th day after the designated billing office receives a proper invoice from the Contractor. If the designated billing office fails to annotate the invoice with the date of receipt at the time of receipt, the invoice payment due date shall be the 30th day after the date ofthe Contractor's invoice; provided the Contractor submitted a proper invoice and no disagreement exists over quantity, quality, or Contractor compliance with contract requirements.

(B) The 30th day after Government acceptance of supplies delivered or services performed by the Contractor.

(iii) On a final invoice, if the payment amount is subject to contract settlement actions, acceptance occurs on the effective date of the contract settlement.

(2) The General Services Administration will issue payment on the due date in (a)(1)(i) above if the Contractor complies with full cycle electronic commerce. Full cycle electronic commerce includes all the following elements:

(i) The Contractor must receive and fulfill electronic data interchange (EDI) purchase orders (transaction set 850).

(ii) The Contractor must generate and submit to the Government valid EDI invoices (transaction set 810) or submit invoices through the GSA Finance Center Internet-based invoice process. Internet-based invoices must be submitted using procedures provided by GSA.

(iii) The Contractor's financial institution must receive and process, on behalf of the Contractor, EFT payments through the Automated Clearing House (ACH) system.

(iv) The EDI transaction sets in (i) through (iii) above must adhere to implementation conventions provided by GSA.

(3) If any of the conditions in(a)(2) above do not occur, the 10 day payment due dates in (a)(1) become 30 day payment due dates.

(4) Certain food products and other payments.

(i) Due dates on Contractor invoices for meat, meat food products, or fish; perishable agricultural commodities; and dairy products, edible fats or oils, and food products prepared from edible fats or oils are—

(A) For meat or meat food products, as defined in section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182 (3)), and as further defined in Pub. L. 98–181, including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, an any perishable egg product, as close as possible to, but not later than, the 7th day after product delivery.

(B) For fresh or frozen fish, as defined in section 204(3) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4003(3)), as close as possible to, but not later than, the 7th day after product delivery.

(C) For perishable agricultural commodities, as defined in section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)), as close as possible to, but not later than, the 10th day after product delivery, unless another date is specified in the contract.

(D) For daily products, as defined in section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e)), edible fats or oils, and food products prepared from edible fats or oils, as close as possible to, but not later than, the 10th day after the date on which a proper invoice has been received. Liquid milk, cheese, certain processed cheese products, butter, yogurt, ice cream, mayonnaise, salad dressing, and other similar products, fall within this classification. Nothing in the Act limits this classification to refrigerated products. When questions arise regarding the proper classification of a specific product, prevailing industry practices will be followed in specifying a contract payment due date. The burden of proof that a classification of a specific product is, in fact, prevailing industry practice is upon the Contractor making the representation.

(ii) If the contract does not require submission of an invoice for payment (e.g., periodic lease payments), the due date will be as specified in the contract.

(5) Contractor's invoice. The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. Notwithstanding paragraph (g) of the clause at FAR 52.212–4, Contract Terms and Conditions—Commercial Items, if the Contractor submits hard-copy invoices, submit only an original invoice. No copies of the invoice are required. A proper invoice must include the items listed in subdivisions (a)(5)(i) through (a)(5)(viii) of this clause. If the invoice does not comply with these requirements, it shall be returned within 7 days after the date the designated billing office received the invoice (3 days for meat, meat food products, or fish; 5 days for perishable agricultural commodities, edible fats or oils, and food products prepared from edible fats or oils), with a statement of the reasons why it is not a proper invoice. Untimely notification will be taken into account in computing any interest penalty owed the Contractor in the manner described in subparagraph (a)(5) of this clause.

(i) Name and address of the Contractor.

(ii) Invoice date. (The Contractor is encouraged to date invoices as close as possible to the date of the mailing or transmission.)

(iii) Contract number or other authorization for supplies delivered or services preformed (including order number and contract line item number).

(iv) Description, quantity, unit of measure, unit price, an extended prices of supplies delivered or services performed.

(v) Shipping and payment terms (e.g., shipment number and date of shipment, prompt payment discount terms). Bill of lading number and weight of shipment will be shown for shipments on Government bills or lading.

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to be notified in the event of a defective invoice.

(viii) Any other information or documentation required by the contract (such as evidence of shipment).

(ix) While not required, the Contractor is strongly encouraged to assign an identification number to each invoice.

(6) Interest penalty. An interest penalty shall be paid automatically by the designated payment office, without request from the Contractor, if payment is not made by the due date and the conditions listed in subdivisions (a)(6)(i) through (a)(6)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day without incurring a late payment interest penalty.

(i) A proper invoice was received by the designated billing office.

(ii) A receiving report or other Government documentation authorizing payment was processed, and there was no disagreement over quantity, quality, or Contractor compliance with any contract term or condition.

(iii) In the case of a final invoice for any balance of funds due the Contractor for supplies delivered or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(7) Computing penalty amount. The interest penalty shall be at the rate established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date, except where the interest penalty is prescribed by other governmental authority (e.g., tariffs). This rate is referred to as the ''Renegotiation Board Interest Rate,'' and it is published in the Federal Register semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the invoice principal payment amount approved by the Government until the payment date of such approved principal amount; and will be compounded in 30-day increments inclusive from the first day after the due date through the payment date. That is, interest accrued at the end of any 30-day period will be added to the approved invoice principal payment amount and will be subject to interest penalties if not paid in the succeeding 30-day period. If the designated billing office failed to notify the Contractor of a defective invoice within the periods prescribed in subparagraph (a)(5) of this clause, the due date on the corrected invoice will be adjusted by subtracting from such date the number of days taken beyond the prescribed notification of defects period. Any interest penalty owed the Contractor will be based on this adjusted due date. Adjustments will be made by the designated payment office for errors in calculating interest penalties.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance shall be deemed to have occurred constructively on the 7th day (unless otherwise specified in this contract) after the Contractor delivered the supplies or performed the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality or Contractor compliance with a contract provision. In the event that actual acceptance occurs within the constructive acceptance period, the determination of an interest penalty shall be based on the actual date of acceptance. The constructive acceptance requirement does, not however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The following periods of time will not be included in the determination of an interest penalty:

(A) The period taken to notify the Contractor of defects in invoices submitted to the Government, but this may not exceed 7 days (3 days for meat, meat food products, or fish; 5 days for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils).

(B) The period between the defects notice and resubmission of the corrected invoice by the Contractor.

(C) For incorrect electronic funds transfer (EFT) information, in accordance with the EFT clause of this contract.

(iii) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the clause at 52.233–1, Disputes, or for more than 1 year. Interest penalties of less than $1 need not be paid.

(iv) Interest penalties are not required on payment delays due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the clause at 52.233–1, Disputes.

(8) Prompt payment discounts. An interest penalty also shall be paid automatically by the designated payment office, without request from the Contractor, if a discount for prompt payment is taken improperly. The interest penalty will be calculated as described in subparagraph (a)(7) of this clause on the amount of discount taken for the period beginning with the first day after the end of the discount period through the date when the Contractor is paid.

(9) Additional interest penalty.

(i) If this contract was awarded on or October 1, 1989, a penalty amount, calculated in accordance with subdivision (a)(9)(iii) of this clause, shall be paid in addition to the interest penalty amount if the Contractor—

(A) Is owed an interest penalty of $1 or more;

(B) Is not paid the interest penalty within 10 days after the date the invoice amount is paid; and

(C) Makes a written demand to the designated payment office for additional penalty payment, in accordance with subdivision (a)(9)(ii) of this clause, postmarked not later than 40 days after the invoice amount is paid.

(ii)(A) Contractors shall support written demands for additional penalty payments with the following data. No additional data shall be required. Contractors shall—

(1) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(2) Attach a copy of the invoice on which the unpaid late payment interest was due; and

(3) State that payment of the principal has been received, including the date of receipt.

(B) Demands must be postmarked on or before the 40th day after payment was made, except that—

(1) If the postmark is illegible or nonexistent, the demand must have been received and annotated with the date of receipt by the designated payment office on or before the 40th day after payment was made; or

(2) If the postmark is illegible or nonexistent and the designated payment office fails to make the required annotation, the demand's validity will be determined by the date the Contractor has placed on the demand; provided such date is no later than the 40th day after payment was made.

(iii)(A) The additional penalty shall be equal to 100 percent of any original late payment interest penalty, except—

(1) The additional penalty shall not exceed $5,000;

(2) The additional penalty shall never be less than $25; and

(3) No additional penalty is owed if the amount of the underlying interest penalty is less than $1.

(B) If the interest penalty ceases to accrue in accordance with the limits stated in subdivision (a)(5)(iii) of this clause, the amount of the additional penalty shall be calculated on the amount of interest penalty that would have accrued in the absence of these limits, subject to the overall limits on the additional penalty specified in subdivision (a)(7)(iii)(A) of this clause.

(C) For determining the maximum and minimum additional penalties, the test shall be the interest penalty due on each separate payment made for each separate contract. The maximum and minimum additional penalty shall not be based upon individual invoices unless the invoices are paid separately. Where payments are consolidated for disbursing purposes, the maximum and minimum additional penalty determination shall be made separately for each contract therein.

(D) The additional penalty does not apply to payments regulated by other Government regulations (e.g., payments under utility contracts subject to tariffs and regulation).

(b) Contract financing payments.

(1) Due dates for recurring financing payments. If this contract provides for contract financing, requests for payment shall be submitted to the designated billing office as specified in this contract or as directed by the Contracting Officer. Contract financing payments shall be made on the [insert day as prescribed by Agency head; if not prescribed, insert 30th day] day after receipt of a proper contract financing request by the designated billing office. In the event that an audit or other review of a specific financing request is required to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the due date specified.

(2) Due dates for other contract financing. For advance payments, loans, or other arrangements that do not involve recurring submissions of contract financing requests, payment shall be in accordance with the corresponding contract terms or as directed by the Contracting Officer.

(3) Interest penalty not applicable. Contract financing payments shall not be assessed an interest penalty for payment delays.

(c) Fast payment procedure due dates. If this contract contains the clause at 52.213–1, Fast Payment Procedure, payments will be made within 15 days after the date of receipt of the invoice.

(End of clause)

552.232–70 Invoice Requirements.

As prescribed in 532.111(a), insert the following clause:

Invoice Requirements (Sep 1999)

(a) Invoices shall be submitted in an original only, unless otherwise specified, to the designated billing office specified in this contract or order.

(b) Invoices must include the Accounting Control Transaction (ACT) number provided below or on the order.

ACT Number (Contracting Officer insert number)

(c) In addition to the requirements for a proper invoice specified in the Prompt Payment clause on this contract or order, the following information or documentation must be submitted with each invoice:

(Contracting Officer list additional requirements.)

(End of clause)

552.232–71 Adjusting Payments.

As prescribed in 532.111(b), insert the following clause:

Adjusting Payments (Sep 1999)

(a) Under the Inspection of Services clause of this contract, payments may be adjusted if any services do not conform with contract requirements. The Contracting Office or a designated representative will inform the Contractor, in writing, of the type and dollar amount of proposed deductions by the 10th workday of the month following the performance period for which the deductions are to be made.

(b) The Contractor may, within 10 working days of receipt of the notification of the proposed deductions, present to the Contracting Officer specific reasons why any or all of the proposed deductions are not justified. Reasons must be solidly based and must provide specific facts that justify reconsideration and/or adjustment of the amount to be deducted. Failure to respond within the 10-day period will be interpreted to mean that the Contractor accepts the deductions proposed.

(c) All or a portion of the final payment may be delayed or withheld until the Contracting Officer makes a final decision on the proposed deduction. If the Contracting Officer determines that any or all of the proposed deductions are warranted, the Contracting Officer shall so notify the Contractor, and adjust payments under the contract accordingly.

(End of clause)

552.232–72 Final Payment.

As prescribed in 532.111(c), insert the following clause:

Final Payment (Sep 1999)

Before final payment is made, the Contractor shall furnish the Contracting Officer with a release of all claims against the Government relating to this contract, other than claims in stated amounts that are specifically excepted by the Contractor from the release. If the Contractor's claim to amounts payable under the contract has been assigned under Assignment of Claims Act of 1940, as amended (31 U.S. 3727, 41 U.S.C. 15), a release may also be required of the assignee.

(End of clause)

552.232–73 Availability of Funds.

As prescribed in 532.705–1, insert the following clause:

Availability of Funds (Sep 1999)

The authorization of performance of work under this contract during the initial contract period and any option or extension period(s) is contingent upon the appropriation of funds to procure this service. If the contract is awarded, extended, or option(s) exercised, the Government's obligation beyond the end of the fiscal year (September 30), in which the award or extension is made or option(s) exercised, is contingent upon the availability of funds from which payment for the contract services can be made. No legal liability on the part of the Government for payment of any money beyond the end of the each fiscal year (September 30) shall arise unless or until funds are made available to the Contracting Officer for this procurement and written notice of such availability is given to the Contractor.

(End of clause)

552.232–74 Invoice Payments.

As prescribed in 532.908 (a)(1), insert the following clause:

Invoice Payments (Sep 1999)

(a) The due date for making invoice payments by the designated payment office is:

(1) For orders placed electronically by the General Services Administration (GSA) Federal Supply Service (FSS), and to be paid by GSA through electronic funds transfer (EFT), the later of the following two events:

(i) The 10th day after the designated billing office receives a proper invoice from the Contractor. If the designated billing office fails to annotate the invoice with the date of receipt at the time of receipt, the invoice payment due date shall be the 10th day after the date of the Contractor's invoice; provided the Contractor submitted a proper invoice and no disagreement exists over quantity, quality, or Contractor compliance with contract requirements.

(ii) The 10th day after Government acceptance of supplies delivered or services performed by the Contractor.

(2) For all other orders, the later of the following two events:

(i) The 30th day after the designated billing office receives a proper invoice from the Contractor. If the designated billing office fails to annotate the invoice with the date of receipt at the time of receipt, the invoice payment due date shall be the 30th day after the date of the Contractor's invoice; provided the Contractor submitted a proper invoice and on disagreement exists over quantity, quality, or Contractor compliance with contract requirements.

(ii) The 30th day after Government acceptance of supplies delivered or services performed by the Contractor.

(3) On a final invoice, if the payment amount is subject to contract settlement actions, acceptance occurs on the effective date of the contract settlement.

(b) The General Services Administration will issue payment on the due date in (a)(1) above if the Contractor complies with full cycle electronic commerce. Full cycle electronic commerce includes all the following elements:

(1) The Contractor must receive and fulfill electronic data interchange (EDI) purchase orders (transaction set 850).

(2) The Contractor must generate and submit to the Government valid EDI invoices (transaction set 810) of submit invoices through the GSA Finance Center Internet-based invoice process. Internet-based invoices must be submitted using procedures provided by GSA.

(3) The Contractor's financial institution must receive and process, on behalf of the Contractor, EFT payments through the Automated Clearing House (ACH) system.

(4) The EDI transaction sets in (b)(1) through (b)(3) above must adhere to implementation conventions provided by GSA.

(c) If any of the conditions in (b) above do not occur, the 10-day payment due dates in (a)(1) become 30-day payment due dates.

(d) Notwithstanding paragraph (g) of the clause at FAR 52.212–4, Contract Terms and Conditions—Commercial Items, if the Contractor submits hard-copy invoices, submit only an original invoice. No copies of the invoice are required.

(e) All other provisions of the Prompt Payment Act (31 U.S.C. 3901 et seq.) and Office of Management and Budget (OMB) Circular A–125, Prompt Payment, apply.

(End of clause)

552.232–75

As prescribed in 532.908 (b)(1), insert the following clause:

Prompt Payment (Sep 1999)

The Government will make payments under the terms and conditions specified in this clause. Payment shall be considered as being made on the day a check is dated or an electronic funds transfer is made. All days referred to in this clause are calendar days, unless otherwise specified.

(a) *Payment due date.*

(1) *Rental Payments.* Rent shall be paid monthly in arrears and will be due on the first workday of each month, and only as provided for by the lease.

(i) When the date for commencement of rent falls on the 15th day of the month or earlier, the initial monthly rental payment under this contract shall become due on the first workday of the month following the month in which the commencement of the rent is effective.

(ii) When the date for commencement of rent falls after the 15th day of the month, the initial monthly rental payment under this contract shall become due on the first workday of the second month following the month in which the commencement of the rent is effective.

(2) *Other payments.* The due date for making payments other than rent shall be the later of the following two events:

(i) The 30th day after the designated billing office has received a proper invoice from the Contractor.

(ii) The 30th day after Government acceptance of the work or service. However,

if the designated billing office fails to annotate the invoice with the actual date of receipt, the invoice payment due date shall be deemed to be the 30th day after the Contractor's invoice is dated, provided a proper invoice is received and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(b) *Invoice and inspection requirements for payments other than rent.*

(1) The Contractor shall prepare and submit an invoice to the designated billing office after completion of the work. A proper invoice shall include the following items:

(i) Names and address of the Contractor.

(ii) Invoice date.

(iii) Lease number.

(iv) Government's order number or other authorization.

(v) Description, price, and quantity of work or services delivered.

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the remittance address in the lease or the order).

(vii) Name (where practicable), title, phone number, and mailing address of person to be notified in the event of a defective invoice.

(2) The Government will inspect and determine the acceptability of the work performed or services delivered within 7 days after the receipt of a proper invoice or notification of completion of the work or services unless a different period is specified at the time the order is placed. If actual acceptance occurs later, for the purpose of determining the payment due date and calculation of interest, acceptance will be deemed to occur on the last day of the 7 day inspection period. If the work or service is rejected for failure to conform to the technical requirements of the contract, the 7 days will be counted beginning with receipt of a new invoice or notification. In either case, the Contractor is not entitled to any payment or interest unless actual acceptance by the Government occurs.

(c) *Interest Penalty.*

(1) An interest penalty shall be paid automatically by the Government, without request from the Contractor, if payment is not made by the due date.

(2) The interest penalty shall be at the rate established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) that is in effect on the day after the due date. This rate is referred to as the ''Renegotiation Board Interest Rate,'' and it is published in the **Federal Register** semiannually on or about January 1 and July 1. The interest penalty shall accrue daily on the payment amount approved by the Government and be compounded in 30-day increments inclusive from the first day after the due date through the payment date.

(3) Interest penalties will not continue to accrue after the filing of a claim for such penalties under the clause at 52.233–1, Disputes, or for more than 1 year. Interest rates penalties of less than $1.00 need not be paid.

(4) Interest penalties are not required on payment delays due to disagreement between the Government and Contractor over the payment amount or other issues involving contract compliance or on amounts temporarily withheld or retained in accordance with the terms of the contract. Claims involving disputes, and any interest that may be payable, will be resolved in accordance with the clause at 52.233–1, Disputes.

(End of clause)

Alternate I (SEP 1999). If Alternate I is used, subparagraph (a)(1) of the basic clause should be designated as paragraph (a) and subparagraph (a)(2) and paragraph (b) should be deleted. Paragraph (c) of the basic clause should be redesignated (b).

552.232–76 Electronic Funds Transfer Payment.

As prescribed in 532.908(b)(2), insert the following clause:

Electronic Funds Transfer Payment (Sep 1999)

(a) The Government will make payments under this lease by electronic funds transfer (EFT). The Lessor must, no later than 30 days before the first payment:

(1) Designate a financial institution for receipt of EFT payments.

(2) Submit this designation to the Contracting Officer or other Government official, as directed.

(b) The Lessor must provide the following information:

(1) The American Bankers Association 9-digit identifying number for wire transfers of the financing institution receiving payment if the institution has access to the Federal Reserve Communications System.

(2) Number of account to which funds are to be deposited.

(3) Type of depositor account (''C'' for checking, ''S'' for savings).

(4) If the Lessor is a new enrollee to the EFT system, the Lessor must complete and submit a ''Payment Information Form,'' SF 3881, before payment can be processed.

(c) If the Lessor, during the performance of this contract, elects to designate a different financial institution for the receipt of any payment, the appropriate Government official must receive notice of such change and the required information specified above no later than 30 days before the date such change is to become effective.

(d) The documents furnishing the information required in this clause must be dated and contain the:

(1) Signature, title, and telephone number of the Lessor or the Lessor's authorized representative.

(2) Lessor's name.

(3) Lease number.

(e) Lessor's failure to properly designate a financial institution or to provide appropriate payee bank account information may delay payments of amounts otherwise properly due.

(End of clause)

552.232–77 Payment By Credit Card.

As prescribed in 532.7003, insert the following clause:

Payment By Credit Card (Sep. 1999)

(a) Definitions. ''Government commercial credit card'' means the uniquely numbered credit card issued by a contractor under GSA's Governmentwide Contract for Fleet, Travel, and Purchase Card Services to named individual Government employees to pay for official Government purchases.

''Oral order'' means an order placed orally either in person or by telephone.

(b) At the option of the Government and if agreeable to the Contractor, payments of ____*____ or less for oral or written orders may be made using the Government commercial credit card.

(c) The Contractor shall not process a transaction for payment through the credit card clearinghouse until the purchased supplies have been shipped or services performed. Unless the cardholder requests correction or replacement of a defective or faulty item in accordance with other contract requirements, the Contractor shall immediately credit a cardholder's account for items returned as defective or faulty.

(d) Payments made using the Government Commercial Credit Card are not eligible for any negotiated prompt payment discount. Payment made using a Government debit card will receive the applicable prompt payment discount.

(End of clause)

** Enter amount not to exceed $100,000.*

Alternate I (SEP 1999). For solicitations and contracts under which other agencies may place orders directly, replace paragraph (b) of the basic clause with the following:

(b) At the option of the Government and if agreeable to the Contractor, payments for oral or written orders may be made using the Government commercial purchase card. The dollar value of a purchase card action must not exceed the ordering agency's established limit.

552.233–70 Protests Filed Directly with the General Services Administration.

As prescribed in 533.103–72, insert the following provisions:

Protests Filed Directly With the General Services Administration (Sep. 1999)

(a) The following definitions apply in this provision:

''Agency Protest Official for GSA'' means the official in the Office of Acquisition Policy designated to review ad decide procurement protests filed with GSA.

''Deciding official'' means the person chosen by the protester to decide the agency protest. The deciding official may be either the Contracting Officer or the Agency Protest Official.

(b) The filing time frames in FAR 33.103(e) apply. An agency protest is filed when the protest complaint is received at the location the solicitation designates for serving protests. GSA's hours of operation are 8:00 a.m. to 4:30 p.m. Protests delivered after 4:30 p.m. will be considered received and filed the following business day.

(c) A protest filed directly with the General Services Administration (GSA) must:

(1) Indicate that it is a protest to the agency.

(2) Be filed with the Contracting Officer.

(3) State whether the protester chooses to have the Contracting Officer or the Agency Protest Official for GSA decide the protest. If the protest is silent on this matter, the Contracting Officer will decide the protest.

(4) Indicate whether the protester prefers to make an oral presentation, a written presentation, or an oral presentation confirmed in writing, of arguments in support of the protest to the deciding official.

(5) Include the information required by FAR 33.103(d)(2):

(i) Name, address, fax number, and telephone number of the protester.

(ii) Solicitation or contract number.

(iii) Detailed statement of the legal and factual grounds for the protest, to include a description of resulting prejudice to the protester.

(iv) Copies of relevant documents.

(v) Request for a ruling by the agency.

(vi) Statement as to the form of relief requested.

(vii) All information establishing that the protester is an interested party for the purpose of filing a protest.

(viii) All information establishing the timeliness of the protest (see paragraph (b) of this provision).

(d) An interested party filing a protest with GSA has the choice of requesting either that the Contracting Officer or the Agency Protest Official for GSA decide the protest.

(e) The decision by the Agency Protest Official for GSA is an alternative to a decision by the Contracting Officer. The Agency Protest Official for GSA will not consider appeals from the Contracting Officer's decision on an agency protest.

(f) The deciding Official must conduct a scheduling conference with the protester within three (3) days after the protest is filed. The scheduling conference will establish deadlines for oral or written arguments in support of the agency protest and for agency officials to present information in response to the protest issues. The deciding official may hear oral arguments in support of the agency protest at the same time as the scheduling conference, depending on availability of the necessary parties.

(g) Oral conferences may take place either by telephone or in person. Other parties (e.g., representatives of the program office) may attend at the discretion of the deciding official.

(h) The following procedures apply to information submitted in support of or in response to an agency protest:

(1) The protester and the agency have only one opportunity to support or explain the substance of the protest (either orally, in writing, or orally confirmed in writing).

(2) GSA procedures do not provide for any discovery.

(3) The deciding official has discretion to request additional information from either the agency or the protester. However, the deciding official will normally decide protests on the basis of information provided by the protester and the agency.

(4) The parties are encouraged, but not required, to exchange information submitted to the Agency Protest Official for GSA.

(5) Any written response by the agency to the protest must be filed with the deciding official within five (5) days after the filing of the protest.

(6) Any additional information that either party wants to submit in writing after one-time oral arguments in support of the agency protest, must be received by the deciding official within two (2) days after the date of the oral arguments.

(i) The deciding official will resolve the protest through informal presentations or meetings to the maximum extent practicable.

(j) An interested party may represent itself or be represented by legal counsel. GSA will not reimburse the party for any legal fees related to the agency protest.

(k) GSA will stay award or suspend contract performance in accordance with FAR 33.103(f). The stay or suspension, unless over-ridden, remains in effect until the protest is decided, dismissed, or withdrawn.

(l) The deciding official will make a best effort to issue a decision on the protest within twenty-eight (28) days after the filing date. The decision may be oral or written. If the decision is communicated orally to the protester, the deciding official will confirm in writing within three (3) days after the decision.

(m) GSA may dismiss or stay proceedings on an agency protest if a protest on the same or similar basis is filed with a protest forum outside of GSA.

(End of provision)

552.236–70 Definitions.

As prescribed in 536.570–1, insert the following clause:

Definitions (Apr 1984)

The terms ''Administration'' and ''Service'' as used in this contract shall mean the General Services Administration (GSA) and the Public Buildings Service (PBS), respectively.

(End of clause)

552.236–71 Authorities and Limitations.

As prescribed in 536.570–2, insert the following clause:

Authorities and Limitations (Apr 1984)

(a) All work shall be performed under the general direction of the Contracting Officer, who alone shall have the power to bind the Government and to exercise the rights, responsibilities, authorities and functions vested in him by the contract documents, except that he shall have the right to designate authorized representatives to act for him. Wherever any provision in this contract specifies an individual (such as, but not limited to, Construction Engineer, Resident Engineer, Inspector or Custodian) or organization, whether governmental or private, to perform any act on behalf of or in the interests of the Government, that individual or organization shall be deemed to be the Contracting Officer's authorized representative under this contract but only to the extent so specified. The Contracting Officer may, at any time during the performance of this contract, vest in any such authorized representatives additional power and authority to act for him or designate additional representatives, specifying the extent of their authority to act for him; a copy of each document vesting additional authority in an authorized representative or designating an additional authorized representative shall be furnished to the Contractor.

(b) The Contractor shall perform the contract in accordance with any order (including but not limited to instruction, direction, interpretation, or determination) issued by an authorized representative in accordance with his authority to act for the Contracting Officer; but the Contractor assumes all the risk and consequences of performing the contract in accordance with any order (including but not limited to instruction, direction, interpretation, or determination) of anyone not authorized to issue such order.

(End of clause)

552.236–72 Specialist.

As prescribed in 536.570–3, insert the following clause:

Specialist (Apr 1984)

The term ''Specialist,'' as used in the contract specification, shall mean an individual or firm of established reputation (or, if newly organized, whose personnel have previously established a reputation in the same field), which is regularly engaged in, and which maintains a regular force of workmen skilled in either (as applicable) manufacturing or fabricating items required by the contract, installing items required by the contract, or otherwise performing work required by the contract. Where the contract specification requires installation by a specialist, that term shall also be deemed to mean either the manufacturer of the item, an individual or firm licensed by the manufacturer, or an individual or firm who will perform the work under the manufacturer's direct supervision.

(End of clause)

552.236–73 Basis of Award—Construction Contract.

As prescribed in 536.570–4, insert the following provision or the appropriate Alternate:

Basis of Award—Construction Contract (Apr 1985)

(a) The low bidder for purposes of award is the responsible bidder offering the lowest price for the base bid (consisting of the lump sum bid and any associated unit price bids extended by the applicable number of units shown on the bid form). See Standard Form 1442, Solicitation, Offer, and Award and the provision entitled ''Contract Award—Sealed Bidding.''

(b) A bid may be rejected as nonresponsive if the bid is materially unbalanced as to bid prices. A bid is unbalanced when the bid is based on prices significantly less than cost for some work and significantly overstated for other work.

(End of provision)

Alternate I (APR 1985). if the solicitation includes a base bid and options, the Contracting Officer shall delete paragraph (a) of the basic provision and insert paragraph (a) substantially as follows:

(a) The low bidder for purposes of award is the responsible bidder offering the lowest aggregate price for (1) the base bid (consisting of the lump sum bid and any associated unit price bids extended by the applicable number of units shown on the bid form) plus (2) all options designated to be evaluated. The evaluation of options will not obligate the Government to exercise the options. See Standard Form 1442, Solicitation, Offer, and Award and the provision entitled ''Contract Award—Sealed Bidding.''

Alternate II (APR 1985). If the solicitation includes a base bid and alternates, the Contracting Officer shall delete paragraph (a) of the basic provision and insert paragraphs (a), (c), and (d) substantially as follows:

(a) The low bidder for purposes of award is the responsible bidder offering the lowest aggregate price for (1) the base bid (consisting of the lump sum bid and any associated unit price bids extended by the applicable number of units shown on the bid form) plus (2) those alternates in the order of priority listed in the solicitation that provide the most features of work within the funds available at bid opening. See the provision entitled ''Contract Award—Sealed Bidding.''

(c) Alternates will be added to the base bid in the order listed in the solicitation (see Standard Form 1442, Solicitation, Offer, and Award). If the addition of an alternate would make all bids exceed the funds available at bid opening, that alternate shall be skipped and the next subsequent alternate in a lower amount shall be added, provided that the aggregate of base bid and the selected alternates do not exceed the funds available at bid opening. For example, when the amount available is $100,000 and a bidder's base bid is $85,000, with its separate bids on four successive alternatives being $10,000, $8,000, $6,000, and $4,000, the aggregate amount of the bid for purposes of selecting the alternates would be $99,000 (base bid plus the first and four alternates). The second and third alternates are skipped because each of them would cause the aggregate of the base bid and alternates to exceed the $100,000 amount available when considered with the first alternate. All bids shall be evaluated on the basis of the same alternates.

(d) After the low bidder has been determined in accordance with paragraph (a), an award may be made to that low bidder on the base bid, plus any combination of alternates for which funds are available at the time of award, but only if the award amount does not exceed the amount offered by any other responsible bidder. If the base bid plus the proposed combination of alternates exceed the amount offered by any other responsible bidder for the same combination of alternates, the award cannot be made on that combination of alternates.

Alternate III (APR 1985). If the solicitation includes a base bid, alternates, and options, the Contracting Officer shall delete paragraph (a) of the basic provision and insert paragraphs (a), (c), and (d) substantially as follows:

(a) The low bidder for purposes of award is the responsible bidder offering the lowest aggregate price for (1) the base bid (consisting of the lump sum bid and any associated unit price bids extended by the applicable number of units shown on the bid form) plus (2) those alternates in the order of priority listed in the solicitation that provide the most features of work within the funds available at bid opening plus (3) all options designated to be evaluated except those options associated with alternates which are skipped during the selection process outlined in paragraph (c) below. The evaluation of options will not obligate the Government to exercise the options. See the provision entitled ''Contract Award—Sealed Bidding.''

(c) Alternates will be added to the base bid in the order listed in the solicitation (see Standard Form 1442, Solicitation, Offer, or Award). If the addition of an alternate would make all bids exceed the funds available at bid opening, that alternate shall be skipped and the next subsequent alternate in a lower amount shall be added, provided that the aggregate of base bid and the selected alternates do not exceed the funds available at bid opening. For example, when the amount available is $100,000 and a bidder's base bid is $85,000, with its separate bids on four successive alternates being $10,000, $8,000, $6,000, and $4,000, the aggregate amount of the bid for purposes of selecting the alternates would be $99,000 (base bid plus the first and fourth alternates). The second and third alternates are skipped because each of them would cause the aggregate of the base bid and alternates to exceed the $100,000 amount available when considered with the first alternate. All bids shall be evaluated on the basis of the same alternates.

(d) After the low bidder has been determined in accordance with paragraph (a), award may be made to that low bidder on the base bid and evaluated options plus any combination of alternates for which funds are available at the time of award, but only if that low bidder is still low on the sum thereof plus any previously unevaluated options designated to be evaluated which are associated with proposed alternates that were skipped during the selection under paragraph (c). If that low bidder is not still low, award cannot be made on the proposed combination of alternates.

552.236–74 Working Hours.

As prescribed in 536.570–5, insert the following clause:

Working Hours (Apr 1984)

(a) It is contemplated that all work will be performed during the customary working hours of the trades involved unless otherwise specified in this contract. Work performed by the Contractor at his own volition outside such customary working hours shall be at no additional expense to the Government.

(b) Any requests received by the Contractor from occupants of existing buildings to change the hours of work shall be referred to the Contracting Officer for determination.

(End of clause)

552.236–75 Use of Premises.

As prescribed in 536.570–6, insert the following clause:

Use of Premises (Apr 1984)

(a) If the premises are occupied, the Contractor, his subcontractors, and their employees shall comply with the regulations governing access to, operation of, and conduct while in or on the premises and shall perform the work required under this contract in such a manner as not to unreasonably interrupt or interfere with the conduct of Government business.

(b) Any request received by the Contractor from occupants of existing buildings to change the sequence of work shall be referred to the Contracting Officer for determination.

(c) If the premises are occupied, the Contractor, his subcontractors and their employees shall not have access to or be admitted into any building outside the scope of this contract except with official permission.

(End of clause)

552.236–76 Measurements.

As prescribed in 536.570–7, insert the following clause:

Measurements (Apr 1984)

All dimensions shown of existing work and all dimensions required for work that is to connect with work now in place, shall be verified by the Contractor by actual measurement of the existing work. Any discrepancies between the contract requirements and the existing conditions shall be referred to the Contracting Officer before any work affected thereby has been performed.

(End of clause)

552.236–77 Specifications and Drawings

As prescribed in 536.570–8, insert the following clause:

Specifications and Drawings (Sep 1999)

The requirements of the clause entitled ''Specifications and Drawings for Construction'' at FAR 52.236–21, are supplemented as follows:

(a) In case of difference between small and large-scale drawings, the large-scale drawings shall govern. Schedules on any contract drawing shall take precedence over conflicting information on that or any other contract drawing. On any of the drawings where a portion of the work is detailed or drawn out and the remainder is shown in outline, the parts detailed or drawn out shall apply also to all other like portions of the work.

(b) Where the word ''similar'' occurs on the drawings, it shall have a general meaning and not be interpreted as being identical, and all details shall be worked out in relation to their location and their connection with other parts of the work.

(c) Standard Details or Specification Drawings are applicable when listed, bound with the specifications, noted on the drawings or referenced elsewhere in the specifications. Where the notes on the drawings indicate modifications, such modifications shall govern.

(d) In case of difference between Standard Details or Specification Drawings and the specifications, the specifications will govern. In case of difference between the Standard Details or Specification Drawings and their drawings prepared specifically for this contract, the later shall govern.

(End of clause)

552.236–78 Shop Drawings, Coordination Drawings, and Schedules.

As prescribed in 536.570–9, insert the following clause:

Shop Drawings, Coordination Drawings, and Schedules (Sep 1999)

The requirements, of the clause entitled ''Specifications and Drawings for Construction'' at FAR 52.236–21, are supplemented as follows:

(a) The Contractor shall submit shop drawings, coordination drawings, and schedules for approval as required by the specifications or requested by the Contracting Officer as follows:

(b) Show drawings shall include fabrication, erection and setting drawings, schedule drawings, manufacturers' scale drawings, wriring and control diagrams, cuts or entire catalogs, pamphlets, descriptive literature, and performance and test data.

(c) Drawings and schedules, other than catalogs, pamphlets and similar printed material, shall be submitted in reproducible form with two prints made by a process approved by the Contracting Officer. Upon approval, the reproducible form will be returned to the Contractor who shall then furnish the number of additional prints, not to exceed 10, required by the specifications. The Contractor shall submit shop drawings in catalog, pamphlet and similar printed form in a minimum of four copies plus as many additional copies as the Contractor may desire or need for his use or use by subcontractors.

(d) Before submitting shop drawings on the mechanical and electrical work, the Contractor shall submit and obtain the Contracting Officer's approval of such lists of mechanical and electrical equipment and materials as may be required by the specifications.

(e) Each shop drawing or coordination drawing shall have a blank area 5 by 5 inches, located adjacent to the title block. The title block shall display the following:

Number and title of drawing
Date of drawing or revision
Name of project building or facility
Name of Contractor and (if appropriate) name of subcontractor submitting drawing
Clear identify of contents and location on the work
Project title and contract number

(f) Unless otherwise provided in this contract, or otherwise directed by the Contracting Officer, shop drawings, coordination drawings and schedules shall be submitted to the Contracting Officer, with a letter in triplicate, sufficiently in advance of construction requirements to permit no less than 10 working days for checking and appropriate action.

(g) Approval of drawings and schedules will be general and shall not be construed as permitting any departure from the contract requirements, or as approving departures from full-size details furnished by the Contracting Officer.

(End of clause)

552.236–79 Samples.

As prescribed in 536.570–10, insert the following clause:

Samples (Apr 1984)

(a) After the award of the contract, the Contractor shall furnish for the approval of the Contracting Officer samples required by the specifications or by the Contracting Officer. Samples shall be delivered to the Contracting Officer or to the Architect as specified or as directed. The Contractor shall prepay all shipping charges on samples. Materials or equipment for which samples are required shall not be used in the work until approved in writing by the Contracting Officer.

(b) Each sample shall have a label indicating:

(1) Name of project building or facility, project title and contract number.

(2) Name of Contractor and, if appropriate, name of subcontractor.

(3) Identification of material or equipment with specification requirement.

(4) Place of origin.

(5) Name of producer and brand (if any).

Samples of finished materials shall have additional markings that will identify them under the finish schedules.

(c) The Contractor shall mail under separate cover a letter in triplicate submitting each shipment of samples and containing the information required in paragraph (b) of this clause. He shall enclose a copy of this letter with the shipment and send a copy to the Government representative on the project. Approval of a sample shall be only for the characteristics or use named in such approval and shall not be construed to change or modify any contract requirement. Substitutions will not be permitted unless they are approved in writing by the Contracting Officer.

(d) Approved samples not destroyed in testing will be sent to the Government representative at the project. Approved samples of hardware in good condition will be marked for identification and may be used in the work. Materials and equipment, incorporated in the work shall match the approved samples. Other samples not destroyed in testing or not approved will be returned to the Contractor at his expense if so requested at time of submission.

(e) Failure of any material to pass the specified tests will be sufficient cause for refusal to consider, under this contract, any further samples of the same brand or make of that material or equipment which previously has proved unsatisfactory in service.

(f) Samples of various materials or equipment delivered on the site or in place may be taken by the Government representative for testing. Samples failing to meet contract requirements, or there shall be a proper adjustment of the contract price as determined by the Contracting Officer.

(g) Unless otherwise specified, when tests are required only one test of each sample proposed for use will be made at the expense of the Government. Samples which do not meet specification requirements will be rejected. Testing of additional samples will be made by the Government at the expense of the Contractor.

(End of clause)

552.236–80 Heat.

As prescribed in 536.570–11, insert the following clause:

Heat (Apr 1984)

Unless otherwise specified or unless already provided by the Government the Contractor shall;

(a) Provide heat, as necessary to protect all work, materials, and equipment against injury from dampness and cold;

(b) Protect, cover and/or heat as may be necessary, to provide and maintain a temperature of not less than 50 degrees Fahrenheit (1) in the concrete during the placing, setting and curing of concrete, and (2) in the plaster during the application, setting and curing of plaster; and

(c) Provide heat as necessary in the area where work is to be done to provide the minimum temperature recommended by the supplier or manufacturer of the material, but in no case less than 50 degrees Fahrenheit, for a period beginning 10 days before placing or interior finishes and finish materials and continuing until completion or beneficial occupancy of the area, whichever is earlier.

(End of clause)

552.236–81 Use of Equipment by the Government.

As prescribed in 536.570–12, insert the following clause:

Use of Equipment by the Government (Apr 1984)

(a) The Government may take over and operate, with Government employees, such equipment as is necessary for heating or cooling such areas of the building as require the service, as soon as the installation is sufficiently complete.

(b) The Contracting Officer will advise the Contractor by letter, prior to the use of equipment, which items of equipment will be operated, and the date and time such operation will begin.

(c) Government operation of equipment will not relieve the Contractor of the one-year guarantee on materials and workmanship elsewhere provided for in this contract.

(d) The guarantee period, elsewhere provided for in this contact, for each piece of equipment shall be in accordance with the ''Guarantees'' clause of this contract.

(End of clause)

552.236–82 Subcontracts.

As prescribed in 536.570–13, insert the following clause:

Subcontracts (Apr 1984)

(a) Nothing contained in the contract shall be construed as creating any contractual relationship between any subcontractor and the Government. The divisions or sections of the specifications are not intended to control the Contractor in dividing the work among subcontractors, or to limit the work performed by any trade.

(b) The Contractor shall be responsible to the Government for acts and omissions of his own employees and of subcontractors and

their employees. He shall also be responsible for the coordination of the work of the trades, subcontractors and suppliers.

(c) The Government will not undertake to settle any differences between or among the Contractor, subcontractors, or suppliers.

(End of clause)

552.236–83 Requirement for a Project Labor Agreement.

As prescribed in 536.570–14, insert a clause substantially the same as the following:

Requirement for a Project Labor Agreement (Sep 1999)

(a) Definition. ''Project Labor Agreement'' (PLA) means an agreement between the contractor, subcontractors, and the union(s) representing workers. Under a PLA, the contractor and subcontractors on a project and the union(s) agree on terms and conditions of employment for the project, establishing a framework for labor-management cooperation to advance the Government's procurement interest in cost, efficiency, and quality.

(b) The Contractor shall, after contract award, enter into a PLA for performance of [*Insert project or contract name*]. The PLA binds the Contractor and subcontractors of whatever tier engaged in onsite construction work. The PLA shall include all the following terms:

(1) Guarantees against strikes, lockouts, and similar work disruptions.

(2) Effective, prompt and mutually binding procedures for resolving labor disputes arising during the project.

(3) Other mechanisms for labor-management cooperation on matters of mutual interest and concern, including productivity, quality of work, safety, and health.

(4) The PLA shall fully conform to all applicable statutes, regulations, and Executive Orders.

(c) Any PLA reached under this clause shall not change the terms of this contract or provide for any pricing adjustment by the Government.

(d) The Government shall not participate in the negotiations of any PLA.

(e) Nothing in this clause precludes contractors or subcontractors from competing for contracts or subcontracts on this project without discrimination based on union or non-union status.

(End of clause)

552.237–70 Qualifications of Offerors.

As prescribed in 537.110(a), insert the following provision:

Qualifications of Offerors (May 1989)

(a) Offers will be considered only from responsible organizations or individuals now or recently engaged in the performance of building service contracts comparable to those described in this solicitation. In order to determine an Offeror's qualifications, the Offeror may be requested to furnish a narrative statement listing comparable contracts which it has performed; a general history of its operating organization; and its complete experience. An Offeror may also be required to furnish a statement of its financial resources; show that it has the ability to maintain a staff of regular employees adequate to ensure continuous performance of the work; and, demonstrate that its equipment and/or plant capacity for the work contemplated is sufficient, adequate, and suitable.

(b) Competency in performing comparable building service contracts, demonstration of acceptable financial resources, personnel staffing, plant, equipment, and supply sources will be considered in determining whether an Offeror is responsible.

(c) Prospective Offerors are advised that in evaluating these areas involving any small business concern(s), any negative determinations are subject to the Certificate of Competency procedures set forth in the Federal Acquisition Regulation.

(End of provision)

552.237–71 Qualifications of Employees.

As prescribed in 537.110(b), insert the following clause:

Qualifications of Employees (May 1989)

(a) The contracting officer or a designated representative may require the Contractor to remove any employee(s) from GSA controlled buildings or other real property should it be determined that the individual(s) is either unsuitable for security reasons or otherwise unfit to work on GSA controlled property.

(b) The Contractor shall fill out and cause all of its employees performing work on the contract work to fill out, for submission to the Government, such forms as may be necessary for security or other reasons. Upon request of the Contracting Officer, the Contractor and its employees shall be fingerprinted.

(c) Each employee of the Contractor shall be a citizen of the United States of America, or an alien who has been lawfully admitted for permanent residence as evidenced by Alien Registration Receipt Card Form I–151, or, who presents other evidence from the Immigration and Naturalization Service that employment will not affect his immigration status.

(End of clause)

552.237–72 Prohibition Regarding ''Quasi-Military Armed Forces.''

As prescribed in 537.110(c), insert the following clause:

Prohibition Regarding ''Quasi-Military Armed Forces'' (Sep 1999)

The Contractor must not, during the term of this contract, offer for hire ''Quasi-Military Armed Forces'' within the meaning of the court decision in United States ex. rel. Weinberger v. Equifax, 557 F.2d 456 (5th Cir. 1977).

(End of clause)

552.237–73 Restriction on Disclosure of Information.

As prescribed in 537.270, insert the following clause:

Restriction on Disclosure of Information (Sep 1999)

(a) The Contractor shall, in the performance of this contract, keep all information contained in source documents or other media furnished by the Government in the strictest confidence. The Contractor shall not publish or otherwise divulge such information in whole or in part, in any manner or form, nor authorize or permit others to do so. The Contractor shall take such reasonable measures as are necessary to restrict access to such information, while in the Contractor's possession, to those employees needing such information to perform the work provided herein, i.e., on a ''need to know'' basis. The Contractor shall immediately notify, in writing, the Contracting Officer in the event that the Contractor determines or has reason to suspect a breach of this requirement.

(b) The Contractor shall not disclose any information concerning the work under this contract to any person or individual unless the Contractor obtains prior written approval from the Contracting Officer.

(c) The Contractor shall insert the substance of this clause in any consultant agreement or subcontract under this contract.

(d) Any unauthorized disclosure of information may result in termination of this contract for cause.

(End of clause)

552.238–70 Identification of Electronic Office Equipment Providing Accessibility for the Handicapped.

As prescribed in 538.273(a)(1), insert the following clause:

Identification of Electronic Office Equipment Providing Accessibility for the Handicapped (Sept 1991)

(a) *Definitions.* ''Electronic office equipment accessiblity'' means the application/configuration of electronic office equipment (includes hardware, software and firmware) in a manner that accommodates the functional limitations of individuals with disabilities (i.e., handicapped individuals) so as to promote productivity and provide access to work related and/or public information resources.

''Handicapped individuals'' mean qualified individuals with impairments as cited in 29 CFR 1613.702(f) who can benefit from electronic office equipment accessibility.

''Special peripheral'' means a special needs aid that provides access to electronic equipment that is otherwise inaccessible to a handicapped individual.

(b) The offeror is encouraged to identify in its offer, and include in any commercial catalogs and pricelists accepted by the Contracting Officer, office equipment, including any special peripheral, that will facilitate electronic office equipment accessibility for handicapped individuals. Identification should include the type of disability accommodated and how the users with that disability would be helped.

(End of clause)

552.238–71 Submission and Distribution of Authorized FSS Schedule Pricelists.

As prescribed in 538.273(a)(2), insert the following clause:

Submission and Distribution of Authorized FSS Schedule Pricelists (Sep 1999)

(a) Definition. For the purposes of this clause, the Mailing List is [Contracting officer shall insert either: ''the list of addressees provided to the Contractor by the Contracting Officer'' or ''the Contractor's listing of its Federal Government customers'']. (b) The Contracting Officer will return one copy of the Authorize FSS Schedule Pricelist to the Contractor with the notification of contract award.

(c)(1) The Contractor shall provide to the GSA Contracting Officer:

(i) Two paper copies of Authorized FSS Schedule Pricelist; and

(ii) The Authorized FSS Schedule Pricelist on a common-use electronic medium.

The Contracting Officer will provide detailed instructions for the electronic submission with the award notification. Some structured data entry in a prescribed format may be required.

(2) The Contractor shall provide to each addressee on the mailing list either:

(i) One paper copy of the Authorized FSS Schedule Price List; or

(ii) A self-addressed, postage-paid envelope or postcard to be returned by addressee that want to receive a paper copy of the pricelist. The Contractor shall distribute price lists within 20 calendar days after receipt of returned requests.

(3) The Contractor shall advise each addressee of the availability of pricelist information through the on-line Multiple Award Schedule electronic data base.

(d) The Contractor shall make all of the distributions required in paragraph (c) at least 15 calendar days before the beginning of the contract period, or within 30 calendar days after receipt of the Contracting Officer's approval for printing, whichever is later.

(e) During the period of the contract, the Contractor shall provide one copy of its Authorized FSS Schedule Pricelist to any authorized schedule user, upon request. Use of the mailing list for any other purpose is not authorized.

(End of clause)

552.238–72 Identification of Energy-Efficient Office Equipment and Supplies Containing Recovered Materials or Other Environmental Attributes.

As prescribed in 538.273(a)(3), insert the following clause:

Identification of Energy-Efficient Office Equipment and Supplies Containing Recovered Materials or Other Environmental Attributes (Sep. 1999)

(a) *Definitions.* ''Energy-efficient office equipment,'' as used in this clause, means office equipment that, in representative use, provides equivalent or better performance and value to users, but uses significantly less energy than most functionally equivalent models.

''Recovered materials,'' as used in this clause, means waste material and by-products which have been recovered or diverted from solid waste, but such term does not include those materials and by-products generated from, and commonly reused, within an original manufacturing process (42 U.S.C. 6903(19)). For paper, it also includes postconsumer materials, and manufacturing and certain other wastes. (42 U.S.C. 6962(h)).

''Remanufactured products,'' as used in this clause, means equipment or parts that have been factory remanufactured or rebuilt to meet new equipment or part performance specifications and have had no use subsequent to their remanufacture.

(b) The offeror shall identify in its offer and include in any commercial catalogs and pricelists and any resultant Government catalogs or pricelists submitted to the Contracting Officer, energy-efficient office equipment and supplies that contain recovered material, remanufactured products, or other environmental attributes. Examples of energy-efficient office equipment are microcomputers and associated equipment that meet the requirements of the Environmental Protection Agency's (EPA's) Energy Star Computers Program. Supplies that contain recovered materials and other environmental attributes include, but are not limited to, products identified in EPA procurement guidelines (40 CFR Subchapter I) and products that are either degradable, ozone safe, recyclable, contain low volatile organic content compounds, contribute to source reduction, or otherwise are designed or manufactured to achieve environmental improvement. For example, an offeror can identify products that are safe or safer alternatives for more toxic or hazardous products and products that can be substituted for ones manufactured with toxic or hazardous materials. Such supplies shall satisfy the guidance contained in 16 CFR Part 260, Guides for the Use of Environmental Marketing Claims.

(c) An offeror, in identifying an item with an environmental attribute, shall possess evidence or rely upon a reasonable basis to substantiate the claim (see 16 CFR 260.5). The Government will accept an offeror's claim of an item's environmental attribute on the basis of—

(1) Participation in a Federal agency sponsored program, e.g., EPA's Energy Star Computer program;

(2) Verification by an independent organization that specializes in certifying such claims; or

(3) Possession of competent and reliable evidence. For any test, analysis, research, study or other evidence to be ''competent and reliable,'' it must have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

(End of clause)

552.238–73 Cancellation.

As prescribed in 538.273(a)(4), insert the following clause:

Cancellation (Sep 1999)

Either party may cancel this contract in whole or in part by providing written notice. The cancellation will take effect 30 calendar days after the other party receives the notice of cancellation. If the Contractor elects to cancel this contract, the Government will not reimburse the minimum guarantee.

(End of clause)

552.238–74 Contractor's Report of Sales.

As prescribed in 538.273(b)(1), insert the following clause:

Contractor's Report of Sales (Sep 1999)

(a) The Contractor must report the quarterly dollar value (in U.S. dollars and rounded to the nearest whole dollar) of all sales under this contract by calendar quarter (i.e., January–March, April–June, July–September, and October–December). The dollar value of a sale is the price paid by the schedule user for products and services on a schedule contract task or delivery order, as recorded by the Contractor. The reported contract sales value must include the industrial funding fee (see Clause 552.238–76).

(b) The Contractor must report the quarterly dollar value of sales on electronic GSA Form 72A, Contractor's Report of Sales, to the FSS Vendor Support Center (VSC) Website at Internet, http://VSC.gsa.gov. The Contractor must report sales separately for each National Stock Number (NSN), Special Item Number (SIN), or subitem. If no sales occur, the Contractor must show zero on the report for each separate NSN, SIN, or subitem.

(c) The Contractor must register with the VSC before using the automated reporting system. To register, the Contractor (or its authorized representative) must call the VSC at (703) 305–6235 and provide the necessary information regarding the company, contact name(s), and telephone number(s). The VSC will then issue a 72A specific password and provide other information needed to access the reporting system. Instructions for electronic reporting are available at the VSC Website or by calling the above phone number.

(d) The Contractor must convert the total value of sales made in foreign currency to U.S. dollars using the ''Treasury Reporting Rates of Exchange,'' issued by the U.S. Department of Treasury, Financial Management Service. The Contractor must use the issue of the Treasury report in effect on the last day of the calendar quarter. The report is available from: Department of the Treasury, Financial Management Service, International Funds Branch, 3700 East-West Highway, PGCII, Room 5A19, Hyattsville, MD 20782, Telephone: (202) 874–7994, Internet: http://www.fms.treas.gov/intn.html.

(e) The report is due 30 days following the completion of the reporting period. The Contractor must also provide a close-out report within 120 days after the expiration of the contract. The contract expires upon physical completion of the last, outstanding task or delivery order of the contract. The close-out report must cover all sales not shown in the final quarterly report and reconcile all errors and credits. If the Contractor reported all contract sales and reconciled all errors and credits on the final quarterly report, then show zero sales in the close-out report.

(End of clause)

552.238–75 Price Reductions.

As prescribed in 538.273(b)(2), insert the following clause:

Price Reductions (Sep 1999)

(a) Before award of a contract, the Contracting Officer and the Offeror will agree upon (1) the customer (or category of customers) which will be the basis of award, and (2) the Government's price or discount relationship to the identified customer (or category of customers). This relationship shall be maintained through out the contract period. Any change in the Contractor's commercial pricing or discount arrangement applicable to the identified customer (or category of customers) which disturbs this relationship shall constitute a price reduction.

(b) During the contract period, the Contractor shall report to the Contracting Officer all price reductions to the customer (or category of customers) that was the basis of award. The Contractor's report shall include an explanation of the conditions under which the reductions were made.

(c)(1) A price reduction shall apply to purchases under this contract if, after the date negotiations conclude, the Contractor—

(i) Revises the commercial catalog, pricelist, schedule or other document upon which contract award was predicated to reduce prices;

(ii) Grants more favorable discounts or terms and conditions than those contained in the commercial catalog, pricelist, schedule or other documents upon which contract award was predicated; or

(iii) Grants special discounts to the customer (or category of customers) that formed the basis of award, and the change disturbs the price/discount relationship of the Government to the customer (or category of customers) that was the basis of award.

(2) The Contractor shall offer the price reduction to the Government with the same effective date, and for the same time period, as extended to the commercial customer (or category of customers).

(d) There shall be no price reduction for sales—

(1) To commercial customers under firm, fixed-price definite quantity contracts with specified delivery in excess of the maximum order threshold specified in this contract;

(2) To Federal agencies; or

(3) Caused by an error in quotation or billing, provided adequate documentation is furnished by the Contractor to the Contracting Officer.

(e) The Contractor may offer the Contracting Officer a voluntary Governmentwide price reduction at any time during the contract period.

(f) The Contractor shall notify the Contracting Officer of any price reduction subject to this clause as soon as possible, but not later than 15 calendar days after its effective date.

(g) The contractor will be modified to reflect any price reduction which becomes applicable in accordance with this clause.

(End of clause)

552.238–76 Industrial Funding Fee.

As prescribed in 538.273(b)(3), insert the following clause:

Industrial Funding Fee (Sep 1999)

(a) The Contractor must pay the Federal Supply Service, GSA, an industrial funding fee (IFF). The Contractor must remit the IFF in U.S. dollars within 30 days after the end of each quarterly reporting period as established in clause 552.238–74, Contractor's Report of Sales. The IFF equals _____*_____ of total quarterly sales reported. The IFF reimburses the GSA Federal Supply Service for the costs of operating the Federal Supply Schedules Program and recoups its operating costs from ordering activities. Offerors must include the IFF in their prices. The fee is included in the award price(s) and reflected in the total amount charged to ordering activities.

(b) The Contractor must remit any monies due as a result of the close-out report required by Clause 552.238–74 at the time the close-out report is submitted to GSA.

(c) The Contractor must pay the IFF amount due by check, or electronic funds transfer through the Automated Clearing House (ACH), to the ''General Services Administration.'' If the payment involves multiple special item numbers or contracts, the Contractor may consolidate the IFFs into one payment. To ensure that the payment is credited properly, the Contractor must identify the check or electronic transmission as an ''Industrial Funding Fee'' and include the following information: contract number(s); report amount(s); and report period(s). If the Contractor makes payment by check, provide this information on either the check, check stub, or other remittance material.

(1) If paying the IFF by check, the Contractor must forward the check to the following address: General Services Administration, Accounts Receivable Branch, P.O. Box 70500, Chicago, IL 60673–0500.

(2) If paying by electronic funds transfer through the ACH, the Contractor must call GSA, Financial Information Control Branch, Receivables, Collections and Sales Section (6BCDR) at [Contracting Officer to insert phone number] to make arrangements.

(d) If the full amount of the IFF is not paid within 30 calendar days after the end of the applicable reporting period, it constitutes a contract debt to the United States Government under the terms of FAR 32.6. The Government may exercise all rights under the Debt Collection Act of 1982, including withholding or setting off payments and interest on the debt (see FAR 52.232–17, Interest).

(e) If the Contractor fails to submit sales reports, falsifies sales report, or fails to pay the IFF In a timely manner, the Government may terminate or cancel this contract. Willful failure or refusal to furnish the required reports, falsification of sales reports, or failure to pay the IFF timely constitutes sufficient cause for terminating the Contractor for cause under the termination provisions of this contract.

(End of clause)

**The Commissioner, Federal Supply Service or a designee determines and provides to contracting officers the percentage amount of the fee to insert in the above clause.*

552.242–70 Status Report of Orders and Shipments.

As prescribed in 542.1107, insert the following clause:

Status Report of Orders and Shipments (Apr 1992)

(a) The Contractor shall furnish to the Administrative Contracting Officer (ACO) a report covering orders received and shipments made during each calendar month of contract performance. The information required by the Government shall be reported on GSA Form 1678, Status Report of Orders and Shipments, in accordance with instructions on the form. The information required by the GSA Form 1678 may also be submitted in an automated printout form if authorized by the ACO. Alternatively, the required information may be reported by electronic data interchange using ANSI standards. For further information, contact GSA, Contract Administration Division [Insert appropriate telephone number of FQC] Reports shall be forwarded to the ACO no later than the seventh workday of the succeeding month.

(b) An initial supply of GSA Form 1678 will be forwarded to the Contractor with the contract. Additional copies of the form, if needed, may be obtained from the ACO, or reproduced by the Contractor.

(End of clause)

552.243–70 Pricing of Adjustments.

As prescribed in 543.205(a)(1), insert the following clause:

Pricing of Adjustments (Apr. 1989)

When costs are a factor in any determination of a contract price adjustment, such costs shall be in accordance with the contract cost principles and procedures in Part 31 of the Federal Acquisition Regulation (48 CFR Part 31) in effect on the date of this contract.

(End of clause)

552.243–71 Equitable Adjustments.

As prescribed in 543.205(a)(2), insert the following clause:

Equitable Adjustments (Apr 1984)

(a) The provisions of the ''Changes'' clause prescribed by FAR 52.243–4 are supplemented as follows:

(1) Upon written request, the Contractor shall submit a proposal, in accordance with the requirements and limitations set forth in the ''Equitable Adjustments'' clause, for work involving contemplated changes covered by the request. The proposal shall be submitted within the time limit indicated in the request or any extension of such time limit as may be subsequently granted. The Contractor's written statement of the monetary extent of a claim for equitable adjustment shall be submitted in the following form:

(i) Proposals totaling $5,000 or less shall be submitted in the form of a lump sum proposal with supporting information to

clearly relate elements of cost with specific items of work involved to the satisfaction of the Contracting Officer, or his/her authorized representative.

(ii) For proposals in excess of $5,000, the claim for equitable adjustment shall be submitted in the form of a lump sum proposal supported with an itemized breakdown of all increases and decreases in the contract in at least the following detail:

Direct Costs

Material quantities by trades and unit costs

(Manufacturing burden associated with material fabrication performed will be considered to be part of the material costs of the fabricated item delivered to the job site)

Labor breakdown by trades and unit costs

(Identified with specific item of material to be placed or operation to be performed)

Construction equipment exclusively necessary for the change

Costs of preparation and/or revision to shop drawings resulting from the change

Workers' Compensation and Public Liability Insurance

Employment taxes under FICA and FUTA

Bond Costs—when size of change warrants revision

Overhead, Profit and Commission

(2) The allowable overhead shall be determined in accordance with the contract cost principles and procedures in Part 31 of the Federal Acquisition Regulation (48 CFR Part 31) in effect on the date of this contract. The percentages for profit and commission shall be negotiated and may vary according to the nature, extent and complexity of the work involved, but in no case shall exceed the following unless the Contractor demonstrates entitlement to a higher percentage:

	Overhead	Profit (percent)	Commission (percent)
To Contractor on work performed by other than his own forces			10
To first tier subcontractor on work performed by his subcontractors			10
To Contractor and/or the subcontractors for that portion of the work performed with their respective forces.	To be Negotiated	10	

Not more than four percentages will be allowed regardless of the number of tier subcontractors. The Contractor shall not be allowed a commission on the commission received by a first tier subcontractor. Equitable adjustments for deleted work shall include credits for overhead, profit and commission. On proposals covering both increases and decreases in the amount of the contract, the application of overhead and profit shall be on the net change in direct costs for the Contractor or subcontractor performing the work.

(3) The Contractor shall submit with the proposal his request for time extension (if any), and shall include sufficient information and dates to demonstrate whether and to what extent the change will delay the contract in its entirety.

(4) In considering a proposal, the Government shall make check estimates in detail, utilizing unit prices where specified or agreed upon, with a view to arriving at an equitable adjustment.

(5) After receipt of a proposal the Contracting Officer shall act thereon, within 30 days; provided however, that when the necessity to proceed with a change does not allow time properly to check a proposal or in the event of failure to reach an agreement on a proposal, the Government may order the Contractor to proceed on the basis of price to be determined at the earliest practicable date. Such price shall not be more than the increase or less than the decrease proposed.

(6) If a mutually acceptable agreement cannot be reached, the Contracting Officer may determine the price unilaterally.

(b) The provisions of the ''Differing Site Conditions'' clause prescribed by FAR 52.236–2 are supplemented as follows: The Contractor shall submit all claims for equitable adjustment in accordance with, and subject to the requirements and limitations set out in paragraph (a) of this ''Equitable Adjustments'' clause.

(End of clause)

552.243–72 Modifications (Multiple Award Schedule).

As prescribed in 543.205(b), insert the following clause:

Modifications (Multiple Award Schedule (Sep 1999)

(a) *General.* The Contractor may request a contract modification by submitting a request to the Contracting Officer for approval, except as noted in paragraph (d) of this clause. At a minimum, every request shall describe the proposed change(s) and provide the rationale for the requested change(s).

(b) *Types of Modifications.*

(1) *Additional items/additional SINs.* When requesting additions, the following information must be submitted:

(i) Information requested in paragraphs (1) and (2) of the Commercial Sales Practice Format to add SINs.

(ii) Discount information for the new item(s) or new SIN(s). Specifically, submit the information requested in *paragraphs 3 through 5* of the Commercial Sales Practice Format. This information is the same as the initial award, a statement to that effect may be submitted instead.

(iii) Information about the new item(s) or the item(s) under the new SIN(s) as described in 552.212–70, Preparation of Offer (Multiple Award Schedule) is required.

(iv) Delivery time(s) for the new item(s) or the items under the new SIN(s) must be submitted in accordance with 552.211–78, Commercial Delivery Schedule (Multiple Award Schedule).

(v) Production point(s) for the new item(s) or the item(s) under the new SIN(s) must be submitted if required by 52.215–6, Place of Performance.

(vi) Hazardous material information (if applicable) must be submitted as required by 52.223–3 (ALT I), Hazardous Material Identification and Material Safety Data.

(vii) Any information requested by 52.212–3(f), Offerors Representations and Certifications—Commercial Items, that may be necessary to assure compliance with 552.225–9, Buy American Act—Trade Agreement—Balance of Payments Program.

(2) *Deletions.* The Contractor shall provide an explanation for the deletion. The Government reserves the right to reject any subsequent offer of the same item or a substantially equal item at a higher price during the same contract period, if the contracting officer finds the higher price to be unreasonable when compared with the deleted item.

(3) *Price Reduction.* The Contractor shall indicate whether the price reduction falls under item (i), (ii), or (iii) of paragraph (c)(1) of the Price Reductions clause at 552.238–75. If the price reduction falls under item (i), the Contractor shall submit a copy of the dated commercial price list. If the price reduction falls under item (ii) or (iii), the Contractor shall submit a copy of the applicable price list(s), bulletins or letters or customer agreements which outline the effective date, duration, terms and conditions of the price reduction.

(c) *Effective Dates.* The effective date of any modification is the date specified in the modification, except as otherwise provided in the Price Reductions clause at 552.238–75.

(d) *Electronic File Updates.* The Contractor shall update electronic file submissions to reflect all modifications. For additional items or SINs, the Contractor shall obtain the contracting officer's approval before transmitting changes. Contract modifications will not be made effective until the Government receives the electronic file updates. The Contractor may transmit price reductions, item deletions, and corrections without prior approval. However, the Contractor shall notify the contracting officer as set forth in the Price Reductions clause at 552.238–75.

(e) *Amendments to Paper Supply Schedule Price Lists.*

(1) The Contractor must provide supplements to its paper price lists, reflecting the most current changes. The Contractor may either:

(i) Distribute a supplemental paper Federal Supply Schedule Price List within 15 workdays after the effective date of each modification.

(ii) Distribute quarterly cumulative supplements. The period covered by a cumulative supplement is at the discretion of the Contractor, but may not exceed three calendar months from the effective date of the earliest modification. For example, if the first modification occurs in February, the quarterly supplement must cover February—April, and every 3 month period after. The Contractor must distribute each quarterly cumulative supplement within 15 workdays from the last day of the calendar quarter.

(2) At a minimum, the Contractor shall distribute each supplement to those ordering activities that previously received the basic document. In addition, the Contractor shall submit two copies of each supplement to the contracting officer, and one copy to the FSS Schedule Information Center.

(End of clause)

Alternate I (Sep 1999). As prescribed in 543.205(b), substitute the following paragraph (d) for paragraph (d) of the basic clause:

(d) *Electronic File Updates.* The Contractor shall update electronic file submissions to reflect all modifications. For additional items or SINs, the Contractor shall obtain the contracting officer's approval before transmitting changes. Contract modifications will not be made effective until the Government receives the electronic file updates. The Contractor may transmit price reductions and corrections without prior approval. However, the Contractor shall notify the contracting officer as set forth in the Price Reductions clause at 552.238–75.

552.246–17 Warranty of Supplies of a Noncomplex Nature

As prescribed in 546.710(a), insert the following clause:

Warranty of Supplies of a Noncomplex Nature (Dec 1990) (Deviation FAR 52.246–17)

(a) *Definitions.* ''Acceptance,'' as used in this clause, means the act of an authorized representative of the Government by which the Government assumes for itself, or as an agent of another, ownership of existing supplies, or approves specific services as partial or complete performance of the contract.

''Correction,'' as used in this clause, means the elimination of a defect.

''Supplies,'' as used in this clause, means the end item furnished by the Contractor and related services required under the contract. The word does not include ''data.''

(b) *Contractor's obligations.*

(1) Notwithstanding inspection and acceptance by the Government of supplies furnished under this contract, or any condition of this contract concerning the conclusiveness thereof, the Contractor warrants that for _____*_____

(i) All supplies furnished under this contract will be free from defects in material or workmanship and will conform with the requirements of this contract; and

(ii) The preservation, packaging, packing, and marking, and the preparation for, and method of, shipment of such applies will conform with the requirements of this contract.

(2) When return, correction, or replacement is required, the Contractor shall be responsible for all costs attendant to the return, correction or replacement of the nonconforming supplies. Any removal in connection with the above shall be done by the Contractor at its expense. However, the Contractor's liability for the transportation charges shall not exceed an amount equal to the cost of transportation by the usual commercial method of shipment between the place of delivery specified in the contract and the Contractor's plant, and return.

(3) Any supplies or parts thereof, corrected or furnished in replacement under this clause, shall also be subject to the terms of this clause to the same extent as supplies initially delivered. The warranty, with respect to supplies or parts thereof, shall be equal in duration to that in paragraph (b)(1) of this clause and shall run from the date of delivery of the corrected or replaced supplies.

(4) All implied warranties of merchantability and ''fitness for a particular purpose'' are excluded from any obligation contained in this contract.

(c) *Remedies available to the Government.*

(1) The Contracting Officer shall give written notice to the Contractor of any breach of warranties in paragraph (b)(1) of this clause with _____*_____. This notice shall contain information concerning the deficiencies found, the location of the nonconforming supplies, and the quantity involved.

(2) Within a reasonable time after the notice, the Contracting Officer may either—

(i) Require, by written notice, the prompt correction or replacement of any supplies or parts thereof (including preservation, packaging, packing, and marking) that do not conform with the requirements of this contract within the meaning of paragraph (b)(1) of this clause; or

(ii) Retain such supplies and reduce the contract price by an amount equitable under the circumstances. When the nature of the defect in the nonconforming item is such that the defect affects an entire batch or lot of material, then the equitable price adjustment shall apply to the entire batch or lot of material from which the nonconforming item was taken.

(3)(i) If the contract provides for inspection of supplies by sampling procedures, conformance of supplies or components subject to warranty action shall be determined by the applicable sampling procedures in the contract. The Contracting Officer—

(A) May, for sampling purposes, group any supplies delivered under this contract;

(B) Shall require the size of the sample to be that required by sampling procedures specified in the contract for the quantity of supplies on which warranty action is proposed;

(C) May project warranty sampling results over supplies in the same shipment or other supplies contained in other shipments even though all of such supplies are not present at the point of reinspection; *provided*, that the supplies remaining are reasonably representative of the quantity on which warranty action is proposed; and

(D) Need not use the same lot size as on original inspection or reconstitute the original inspection lots.

(ii) Within a reasonable time after notice of any breach of the warranties specified in paragraph (b)(1) of this clause, the Contracting Officer may exercise one or more of the following options:

(A) Require an equitable adjustment in the contract price for any group of supplies.

(B) Screen the supplies grouped for warranty action under this clause at the Contractor's expense and return all nonconforming supplies to the Contractor for correction or replacement.

(C) Require the Contractor to screen the supplies at locations designated by the Government within the continental United States and to correct or replace all nonconforming supplies.

(D) Return the supplies grouped for warranty action under this clause to the Contractor (irrespective of the f.o.b. point or the point of acceptance) for screening and correction or replacement. All costs incurred by the Government in returning the nonconforming supplies, including costs to the freight carrier resulting from the Contractor's refusal to accept their return, shall be for the Contractor's account.

(4)(i) The Contracting Officer may, by contract or otherwise, correct or replace the nonconforming supplies with similar supplies from another source and charge to the Contractor the cost occasioned to the Government thereby if the Contractor—

(A) Fails to make redelivery of the corrected or replaced supplies within the time established for their return; or

(B) Fails either to accept return of the nonconforming supplies or fails to make progress after their return to correct or replace them so as to endanger performance of the delivery schedule, and in either of these circumstances does not cure such failure within a period of 10 days (or such longer period as the Contracting Officer may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure.

(ii) Instead of correction or replacement by the Government, the Contracting Officer may require an equitable adjustment of the contract price for all nonconforming supplies, including batch or lot materials which either have been consumed or other disposition has been made. In addition, if the Contractor fails to furnish timely disposition instructions, the Contracting Officer may return the supplies for screening and correction or replacement under subparagraph (c)(3)(ii)(D) above; store the nonconforming supplies for the Contractor's account; sell the nonconforming supplies to the highest bidder on the open market and apply the proceeds against the accumulated storage and other costs, including the cost of the sale; or otherwise dispose of the nonconforming supplies for the Contractor's account in a reasonable manner. The Government is entitled to reimbursement from the Contractor, or from the proceeds of such disposal, for the reasonable expenses of the care and disposition of the

nonconforming supplies, as well as for excess costs incurred or to be incurred.

(5) The rights and remedies of the Government provided in this clause are in addition to and do not limit any rights afforded to the Government by any other clause of this contract.

(6) Unless otherwise provided, this warranty is applicable both within and outside the continental limits of the United States.

(7) In addition to other marking requirements of this contract, the Contractor shall stamp or mark the supplies delivered or otherwise furnish notice with the supplies of the existence of the warranty. The marking should briefly include (i) a statement that the warranty exists, (ii) the substance of the warranty, (iii) its duration, and (iv) whom to notify if the supplies are found to be defective.

(End of clause)

** State the specific period of time after delivery or the specified event whose occurrence will terminate the warranty period; e.g., the number of miles or hours of use, or combination of any applicable event or periods of time.*

*** Insert specific period of time; e.g., ''45 days from the last delivery under this contract,'' or ''45 days after discovery of the defect.'' The number of days specified shall be no less than 30.*

Alternate I (DEC 1990). As prescribed in 546.710(a)(1), substitute the following for paragraph (b)(1) of the basic clause and delete paragraph (b)(4) of the basic clause.

(1) Notwithstanding inspection and acceptance by the Government of supplies furnished under this contract, or any condition of this contract concerning the conclusiveness thereof, the Contractor warrants that for _____*_____ all supplies furnished—

(i) Are of a quality to pass without objection in the trade under the contract description;

(ii) Are fit for the ordinary purposes for which the supplies are used;

(iii) Are within the variations permitted by the contract, and are of an even kind, quality, and quantity within each unit and among all units;

(iv) Are adequately contained, packaged, and marked as the contract may require; and

(v) Conform to the promises or affirmations of fact made on the container.

Alternate II (DEC 1990). As prescribed in 546.710(a)(2), substitute the following paragraph for paragraph (b)(1) of the basic clause:

(1) Notwithstanding inspection and acceptance by the Government of supplies furnished under this contract, or any condition of this contract concerning the conclusiveness thereof, the Contractor warrants that for _____*_____ all supplies furnished—

(i) Conform to the specifications except that in the case of solvent systems, the viscosity may exceed the specified maximum by 10 Kreb Units, unless otherwise specified elsewhere in this contract; and

(ii) Are suitable for their intended purpose as stated in this contact.

Alternate III (DEC 1990). As prescribed in 546.710(a)(3), substitute the following for paragraph (b)(1) of the basic clause, redesignate paragraph (c) of the basic clause as paragraph (d), and add the following as paragraph (c) in the basic clause:

(1) Notwithstanding inspection and acceptance by the Government of supplies furnished under this contract, or any condition of this contract concerning the conclusiveness thereof, the Contractor warrants that for _____*_____, beginning with the first day of the first full month following the month of manufacture marked on the container, all supplies furnished retain their original characteristics to the extent that the supplies remain suitable for the intended use as stated in this contract (i) under actual application conditions or (ii) when tested in accordance with requirements stated elsewhere in this contract.

(c) *Government surveillance and testing.*

(1) During this period, surveillance will be maintained on supplies warehoused in Government facilities; and the supplies will be tested periodically to determine their suitability for intended use. Sampling for surveillance testing will be in accordance with Military Standard No. 105, and such testing will be made after NORMAL MIXING, STIRRING, OR SHAKING, in accordance with directions either furnished with the supplies or as shown in the applicable specifications.

(2) Surveillance testing will be based on storage stability requirements set forth in the contract specification, or purchase description on the basis of salient characteristics (e.g., viscosity or sag flow, curing time, strip adhesion or tensile shear, etc.) established by GSA as appropriate to determine suitability for intended use. In the case of brand name items not covered by detailed purchase descriptions, surveillance testing may be based on salient characteristics included in the manufacturer's data sheets. If storage stability requirements showing allowable variations are not included in applicable specifications or elsewhere in the contract, material will be considered suitable for intended use if the salient characteristics vary not more than 20 percent from the originally specified values (i.e., those applicable to acceptance testing of the supplies) for noncritical end-use items, and not more then 10 percent for critical end-use items.

552.246–7–0 Source Inspection by Quality Approved Manufacturer.

As prescribed in 546.302–70, insert the following clause:

Source Inspection by Quality Approved Manufacturer (Sep 1999)

(a) *Inspection system and inspection facilities.*

(1) The inspection system maintained by the Contractor under the Inspection of Supplies—Fixed Price clause (FAR 52.246–2) of this contract shall be maintained throughout the contract period and shall comply with all requirements of editions in effect on the date of the solicitation of either Federal Standard 368 or the International Organization for Standardization (ISO) Standard 9001 (ANSI/ASQC Q 91) (Quality Systems—Model for Quality Assurance in Design/Development, Production, Installation and Servicing), or ISO Standard 9002 (ANSI/ASQC Q 92) (Quality Systems—Model for Quality Assurance in Production and Installation). The ISO 9000 family of standards is a set of worldwide standards used to document, implement and demonstrate quality assurance systems. When using the ISO option the Contractor's quality system must be registered by a third party registrar accredited by either the Registrar Accreditation Board (RAB) or an organization recognized as equivalent. A written description of the inspection system shall be made available to the Government before contract award. The Contractor shall immediately notify the Contracting Officer and the designated GSA quality assurance office of any changes made in the inspection system during the contract period. As used herein, the term ''inspection system'' means the Contractor's own facility or any other facility acceptable to the Government that will be used to perform inspections or tests of materials and components before incorporation into end articles and for inspection of such end articles before shipment. When the manufacturing plant is located outside of the United States, the Contractor shall arrange delivery of the items from a plant or warehouse located in the United States (including Puerto Rico and the Virgin Islands) equipped to perform all inspections and tests required by the contract or specifications to evidence conformance therewith, or shall arrange with a testing laboratory or other facility in the United States, acceptable to the Government, to perform the required inspections and tests.

(2) In addition to the requirements in Federal Standard 368, ISO 9001 or ISO 9002 records shall include the date when inspection and testing were performed. These records shall be available for (i) 3 years after final payment; or (ii) 4 years from the end of the Contractor's fiscal year in which the record was created, whichever period expires first.

(3) Offerors are required to specify, in the space provided elsewhere in this solicitation, the name and address of each manufacturing plant or other facility where supplies will be available for inspection, indicating the item number(s) to which each applies.

(4) Within 10 calendar days after receipt of the written notice of award, the Contractor shall provide the Administrative Contracting Officer with the name of the individual and an alternate that will be responsible for inspecting each shipment under this contract.

(b) *Inspection and receiving reports.*

(1) For each shipment released, one of the officials named by the Contractor under paragraph (a)(4) above shall sign a Quality Approved Manufacturer Certificate certifying that supplies have been inspected and found to comply with contract requirements. The certification shall read as follows:

''I certify that all items in this shipment have been listed herein, and have been inspected and found to comply with all requirements of the contract.''

Signature of Certifying Official

(2) For shipments made to military facilities, the Contractor shall prepare and distribute the DD Form 250, Material Inspection and Receiving Report, or computer formatted equivalent of the form not later than the close of business the workday following shipment. The certification above shall be placed in block 16 on this form. The Contractor will be provided a supply of the DD Form 250 with complete instructions for preparation and distribution.

(3) For shipments made to civilian facilities *only*, the Contractor shall prepare and distribute not later than the close of business the workday following shipment a certification of inspection and conformance for the identified items, in accordance with instructions furnished at the time of award. The Contractor may furnish the requisite information on the DD Form 250 or computer formatted equivalent, company letterhead, or invoice document.

(c) *Inspection by Government personnel.*

(1) Although the Government will normally rely upon the Contractor's certification as to the quality of supplies shipped, it reserves the right under the Inspection of Supplies—Fixed Price clause to inspect and test all supplies called for by this contract, before acceptance, at all times and places, including the point of manufacture. When the Government notifies the Contractor of its intent to inspect supplies before shipment, the Contractor shall notify or arrange for subcontractors to notify the designated GSA quality assurance office 7 workdays before the date when supplies will be ready for inspection. Shipment shall not be made until inspection by the Government is completed and shipment is authorized by the Government.

(2) Government inspection responsibility will be assigned the GSA quality assurance office which has jurisdiction over the State in which the Contractor's or subcontractor's plant or other designated point for inspection is located.

(3) During the contract period, a Government representative may periodically select samples of supplies produced under this contract for verification inspection and testing. Samples sent to a Government testing facility will be disposed of as follows: Samples from an accepted lot, not damaged in the testing process, will be returned promptly to the Contractor after completion of tests. Samples damages in the testing process will be disposed of as requested by the Contractor. Samples from a rejected lot will be returned to the Contractor or disposed of in a time and manner agreeable to both the Contractor and the Government.

(d) Quality deficiencies.

(1) Notwithstanding any other clause of this contract concerning the conclusiveness of acceptance by the Government, any supplies or production lots shipped under this contract found to be defective in material or workmanship, or otherwise not in conformity with the requirements of this contract within a period of _____*_____ months after acceptance shall, at the Government's option, be replaced, repaired or otherwise corrected by the Contractor at no cost to the Government within 30 calendar days (or such longer period as the Government may authorize in writing) after receipt of notice to replace or correct. The Contractor shall remove, at its expense, supplies rejected or required to be replaced, repaired or corrected. When the nature of the defect affects an entire batch or lot of supplies, and the Contracting Officer determines that correction can best be accomplished by retaining the nonconforming supplies and reducing the contract price by an amount equitable under the circumstances, then the equitable price adjustment shall apply to the entire batch or lot of supplies from which the nonconforming item was taken.

(2) If supplies in process, shipped, or awaiting shipment to fill Government orders are found not to comply with contract requirements, or if deficiencies in either plant quality or process controls are found, the Contractor may be issued a Quality Deficiency Notice (QDN). Upon receipt of a QDN, the Contractor shall take immediate corrective action and shall suspend shipment of the supplies covered by the QDN until such time as corrective action has been completed. The Contractor shall notify the GSA quality assurance office, within 5 workdays, of corrective action taken or to be taken to permit on site verification by a Government representative. Shipments of nonconforming supplies will be returned at the Contractor's expense and may constitute cause for termination. Delays due to the insurance of a QDN do not constitute excusable delay under the Default clause. Failure to complete corrective action in a timely manner may result in termination of this contract.

(3) This contract may be terminated for default if subsequent Government inspection discloses that plant quality or process controls are not being maintained, supplies which do not meet the requirements of the specification are being shipped, or there is failure to comply with any other requirement of this clause.

(e) *Additional cost for inspection and testing.* The Contractor will be charged for any additional cost of inspection/testing or reinspecting/retesting supplies for the reasons stated in paragraph (e) of FAR 52.246–2, Inspection of Supplies—Fixed Price. When inspection or testing is performed by or under the direction of GSA, charges will be at the rate of $_____*_____ per man-hour or fraction thereof if the inspection is at a GSA distribution center; $_____*_____ per man-hour or fraction thereof, plus travel costs incurred, if the inspection is at any other location; and $_____*_____ per man-hour or fraction thereof for laboratory testing, except that when a testing facility other than a GSA laboratory performs all or part of the required tests, the Contractor shall be assessed the actual cost incurred by the Government as a result of testing at such facility. When inspection is performed by or under the direction of any agency other than GSA, the charges indicated above may be used, or the agency may assess the actual cost of performing the inspection and testing.

(F) *Responsibility for rejected supplies.* When the Contractor fails to remove or provide instructions for the removal of rejected supplies under paragraph (d) above, pursuant to the Contracting Officer's instructions, the Contractor shall be liable for all costs incurred by the Government in taking such measures as are expedient to avoid unnecessary loss to the Contractor. In addition to the remedies provided in FAR 52.246–2, supplies may be—

(1) Stored for the Contractor's account;

(2) Reshipped to the Contractor at its expense (any additional expense incurred by the Government or the freight carrier caused by the refusal of the Contractor to accept their return also shall be for the Contractor's account); or

(3) Sold to the highest bidder on the open market and the proceeds applied against the accumulated storage and other costs, including the cost of the sale.

(g) *Subcontracting requirements.* The Contractor shall insert in any subcontracts the inspection or testing provisions set forth in paragraphs (a) through (d) of this clause and the Inspection of Supplies—Fixed Price clause of this contract. The Contractor shall be responsible for compliance by any subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause and the Inspection of Supplies—Fixed Price clause.

(End of clause)

**Normally insert 12 months as the period during which defective or otherwise nonconforming supplies must be replaced. However, when the supplies being bought have a shelf life of less than 1 year, you should use the shelf-life period, or in the instance where you reasonably expect a longer period to be available, you should use the longer period.*

***The rates to be inserted are established by the Commissioner of the Federal Supply Service or a designee.*

552.246–71 Source Inspection by Government.

As prescribed in 546.302–71, insert the following clause:

Souce Inspection by Government (SEP 1999)

(a) *Inspection by Government personnel.*

(1) Supplies to be furnished under this contract will be inspected at source by the Government before shipment from the manufacturing plant or other facility designated by the Contractor, unless the Contractor is otherwise notified in writing by the Contracting Officer or a designated representative. Notwithstanding the foregoing, the Government may perform any or all tests contained in the contract specifications at a Government facility without prior written notice by the Contracting Officer before release of the supplies for shipment. Samples sent to a Government resting facility will be disposed of as follows: Samples from an accepted lot, not damaged in the testing process, will be returned promptly to the Contractor after completion of tests. Samples damaged in the testing process will be disposed of as requested by the Contractor. Samples from a rejected lot will be returned to the Contractor or disposed of in a time and manner agreeable to both the Contractor and the Government.

(2) Government inspection responsibility will be assigned to the GSA quality assurance office which has jurisdiction over the State in which the Contractor's subcontractor's plant or other designated point for inspection is located. The Contractor shall notify or arrange for subcontractors to notify the designated GSA quality assurance office 7 workdays before the date when supplies will be ready for inspection. Shipment shall not be made until after inspection by the Government is completed and shipment is authorized by Government.

(b) *Inspection and receiving reports.* For each shipment, the Contractor shall be responsible for preparation and distribution of inspection documents as follows: (1) DD Form 250, Material Inspection and Receiving Report, or computer formatted equivalent for deliveries to military agencies; or (2) GSA Form 308, Notice of Inspection for deliveries to GSA or other civilian agencies. When required, the Contractor will be furnished a supply of GSA Form 308 and/or DD Form 250, and complete instructions for their reparation and distribution.

(c) *Inspection facilities.*

(1) The inspection system required to be maintained by the Contractor in accordance with FAR 52.246–2, Inspection of Supplies—Fixed Price, may be the Contractor's own facilities or any other facilities acceptable to the Government. The facilities shall be utilized to perform all inspections and tests of materials and components before incorporation into end articles, and for the inspection of such end articles before shipment. The Government reserves the right to evaluate the acceptability and effectiveness of the Contractor's inspection system before award and periodically during the contract period.

(2) Offerors are required to specify, in the spaces provided elsewhere in the solicitation, the name and address of each manufacturing plant or other facility where supplies will be available for inspection, indicating the item number(s) to which each applies.

(3) The Contractor shall deliver the items specified in this contract from a plant or warehouse located within the United States (including Puerto Rico and the Virgin Islands) that is equipped to perform all inspections and tests required by this contract or specifications to evidence conformance therewith, or shall arrange with a testing laboratory or other facility in the United States, acceptable to the Government, to perform the required inspections and tests.

(d) *Availability of records.*

(1) In addition to any other requirement of this contract, the Contractor shall maintain records showing the following information for each order received under the contract: (i) order number; (ii) date order received by the Contractor; (iii) quantity ordered; (iv) date scheduled into production; (v) batch or lot number, if applicable; (vi) date inspected and/or tested; (vii) date available for shipment; (viii) date shipped or date service completed; and (ix) National Stock Number (NSN), or if none is provided in the contract, the applicable item number or other contractual identification.

(2) These records should be maintained at the point of source inspection and shall be available to the Contracting Officer, or an authorized representative, for (i) 3 years after final payment; or (ii) 4 years from the end of the Contractor's fiscal year in which the record was created, whichever period expires first.

(e) *Additional cost for inspection and testing.* The Contractor will be charged for any additional cost for inspecting/testing or reinspection/retesting supplies for the reasons stated in paragraph (e) of FAR 52.246–2, Inspection of Supplies—Fixed Price. When inspection or testing is performed by or under the direction of GSA, charges will be at the rate of $_____*_____ per man-hour or fraction thereof if the inspection is at a GSA distribution center; $_____*_____ per man-hour or fraction thereof, plus travel costs incurred, if the inspection is at any other location; and $_____*_____ per man-hour or fraction thereof for laboratory testing, except that when a testing facility other than a GSA laboratory performs all or part of the required tests, the Contractor shall be assessed the actual cost incurred by the Government as a result of testing at such facility. When inspection is performed by or under the direction of any agency other than GSA, the charges indicated above may be used, or the agency may assess the actual cost of performing the inspection and testing.

(f) *Responsibility for rejected supplies.* When the Contractor fails to remove or provide instructions for the removal of rejected supplies under FAR 52.246–2(h) pursuant to the Contracting Officer's instructions, the Contractor shall be liable for all costs incurred by the Government in taking such measures as are expedient to avoid unnecessary loss to the Contractor. In addition to the remedies provided in FAR 52.246–2, supplies may be—

(1) Stored for the Contractor's account;

(2) Reshipped to the Contractor at its expense (any additional expense incurred by the Government or the freight carrier caused by the refusal of the Contractor to accept their return also shall be for the Contractor's account); or

(3) Sold to the highest bidder on the open market and the proceeds applied against the accumulated storage and other costs, including the cost of the sale.

(End of clause)

** The rates to be inserted are established by the Commissioner of the Federal Supply Service or a designee.*

552.246–72 Final Inspection and Tests.

As prescribed in 546.312, insert the following clause:

Final Inspection and Tests (Sep 1999)

The Contractor shall give written notice to the Contracting Officer at least 10 calendar days before the date the work will be completed and ready for final inspection and tests. Final inspection and tests will begin within 10 calendar days after the date specified in the Contractor's notice unless the Contracting Officer determines that the work is not ready for final inspection and so informs the Contractor.

(End of clause)

552.246–73 Warranty—Multiple Award Schedule.

As prescribed in 546.710(b), insert the following clause:

Warranty—Multiple Award Schedule (Feb 1996)

Unless specified otherwise in this contract, the Contractor's standard commercial warranty as stated in the Contractor's commercial price list will apply to this contract.

(End of clause)

552.246–74 Warranty—International Multiple Award Schedule.

As prescribed in 546.710(c), insert the following clause:

Warranty—International Multiple Award Schedule (May 1989)

Unless specified otherwise in this contract, the Contractor's standard commercial warranty as stated in the commercial price list applies to this contract, except: (a) the Contractor shall provide, at a minimum, a warranty on all non-consumable parts for a period of 90 days from the date that the Government accepts the product; (b) parts and labor required under the warranty provisions shall be supplied free of charge; (c) transportation costs of returning the products to and from the repair facility, or the costs involved with Contractor personnel traveling to the Government facility for the purpose of repairing the product onsite shall be borne by the Contractor during the 90-day warranty period.

(End of clause)

552.246–75 Guarantees.

As prescribed in 546.710(d), insert the following clause:

Guarantees (May 1989)

(a) Unless otherwise provided in the specifications, the Contractor guarantees all work to be in accordance with contract requirements and free from defective or inferior materials, equipment, and workmanship for 1 year after the date of final acceptance or the date the equipment or work was placed in use by the Government, whichever occurs first.

(b)(1) If, within any guarantee period, the Contracting Officer finds that guaranteed work requires repair or change because of defective or inferior materials, equipment, or workmanship or is not in accordance with contract requirements, the Contracting Officer shall notify the Contractor in writing. The Contractor shall promptly, and without additional expense to the Government, correct:

(i) All guaranteed work;

(ii) All damage to equipment, the site, the building or its contents resulting from the unsatisfactory guaranteed work; and

(iii) Any work, materials, and equipment that are disturbed in fulfilling the guarantee, including any disturbed work, materials, and equipment that may have been guaranteed under another contract.

(2) If the Contractor fails to proceed promptly in accordance with the guarantee,

the Government may have such work performed at the expense of the Contractor.

(c) Any special guarantees that may be required under the contract will be subject to paragraphs (a) and (b), insofar as they do not conflict with special guarantees.

(d) The Contractor shall furnish to the Government: (1) Each transferable guarantee or warranty of equipment, materials, or installation furnished by any manufacturer, supplier, or installer in the ordinary course of business; (2) All information required to make such guarantee or warranty legally binding and effective; and (3) The information and the guarantee or warranty in sufficient time to permit the Government to meet any time limit specified in the guarantee or warranty or, if no time limit is specified, prior to completion and acceptance of all work under this contract.

(End of clause)

552.246–76 Warranty of pesticides.

As prescribed in 546.710(e), insert the following clause:

Warranty of Pesticides (May 1989)

(a) Notwithstanding acceptance of pesticides by the Government, the Contractor warrants that for 1 year after the date of shipment, all pesticides furnished under this contract shall meet the requirements of Pub. L. 92–516, as amended, and shall be registered with the Environmental Protection Agency (EPA).

(b) If EPA takes action to stop sale, stop use, remove, seize, or cancel registration of a pesticide within 1 year after date of shipment, the Contractor shall immediately notify the Contracting Officer. The notification will include: (1) contract number; (2) identification of the pesticide; (3) reason for the EPA action against the pesticide; and (4) list of Government agencies and addresses to which it was delivered.

(End of clause)

552.247–70 Placarding Railcar Shipments.

As prescribed in 547.305(a), insert the following clause:

Placarding Railcar Shipments (May 1989)

When a railcar is loaded in such a manner that it can be or should be unloaded from only one side, the Contractor shall place on the appropriate railcar door a placard reading ''UNLOAD FROM THIS SIDE'' and on the opposite door a placard reading ''UNLOAD FROM OTHER SIDE.''

(End of clause)

552.247–71 Diversion of Shipment Under f.o.b. Destination Contracts.

As prescribed in 547.305(b), insert the following clause:

Diversion of Shipment Under F.O.B. Destination Contracts (Sep 1999)

(a) Notwithstanding paragraph (c) of the clause in this contract titled 52.212–4, Contract Terms and Conditions—Commercial Items, the Government has the unilateral right to make changes at any time within the general scope of this contract in either the:

(1) Method of shipment or packing.

(2) Place of delivery.

(b) If any such change causes an increase or decrease in the cost of this contract, the Contracting Officer shall make an equitable adjustment in the contract price, the delivery schedule, or both. The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of a delivery order.

(c) The Government shall make no adjustment when supplies are identically priced for delivery regionally or nationally and the place of delivery is changed within the area to which the identical price applies. In all other cases, adjustments for changes in transportation costs under this clause shall be determined as follows:

(1) If the contractor ships by contract or common carrier, price adjustments shall be determined by comparing the cost of shipments to the new destination(s), as evidenced by copy of paid freight bills supplied by the Contractor with the invoice, to one of the following:

(i) The cost of shipments to the standard contract destination, as evidenced by copy of appropriate paid freight bills supplied by the Contractor.

(ii) If no shipments have been made to the standard contract destination, the cost as evidenced by the applicable rates of a common or contract carrier. If carrier rates are not publicly filed with a regulatory body (e.g., interstate shipments moving by rail piggyback service), the Contractor shall provide a copy of the contract, letter agreement, or other written communication from the carrier(s) quoting the rates/charges that would have applied for shipments to the standard contract destination.

(2) If (i) shipments to the new destination are made by the Contractor's owned or leased trucks or (ii) shipments to the original destination were or would have been made by the Contractor's owned or leased trucks, the Government shall determine the adjustment by substituting a rate equal to 70 percent of the lowest applicable rate published in common carrier tariffs as of the date of shipment for the Contractor's actual rate or contemplated transportation costs.

(d) If the copies of paid freight bills for a diverted shipment do not show, or make readily available, each of the following items,the Contractor shall supply a written statement showing the item(s):

(1) Full name of each carrier in the routing.

(2) Number of containers.

(3) Gross shipping weight.

(4) Actual date of shipping.

(5) Freight description for the supplies as indicated in the ''National Motor Freight Classification'' or the ''Uniform Freight Classification'' (Rail).

(End of clause)

552.249–70 Termination for Convenience of the Government (Fixed Price) (Short Form).

As prescribed in 549.502(a) insert the following clause:

Termination for Convenience of the Government (Fixed-Price) (Short Form) (May 1988) (Deviation FAR 52.249–1 and 52.249–2)

(a) If the Government terminates this contract for convenience, the rights of the Government and the Contractor shall be determined under paragraph (b) unless there is a termination liability schedule, in which case the rights of the parties shall be determined under paragraph (c).

(b) The clause at [Contracting Officer inserts 52.249–1 or 52.249–2, as applicable] of the FAR shall apply to the supply portion of the contract and the clauses at 52.249–4 of the FAR shall apply to the service portion of the contract.

(c) If the Contractor specifies a schedule of termination liability charges that would be incurred by the Government if the Government terminates this lease contract without taking title to the equipment, the payment of such charges shall be the only responsibility of the Government to compensate the Contractor for such termination; except that, there shall be no termination liability for equipment installed after termination of this contract.

(End of clause)

552.249–71 Submission of Termination Liability Schedule.

As prescribed in 549.502(b), insert the following clause:

Submission of Termination Liability Schedule (May 1989)

(a) An offeror may submit, as part of its proposal, a termination liability schedule to be applied if any resultant contract is terminated by the Government for reasons other than default. The offeror shall provide and explain the amount and method of computation of the termination liability charge(s).

(b) If submitted, the termination liability schedule will be incorporated into Part I, Section B of the contract document. If a termination liability schedule is not submitted and the Government terminates any resultant contract for its convenience, the rights of the parties shall be determined under paragraph (b) of the GSAR Termination for Convenience of the Government clause at 552.249–70.

(c) Any termination liability charges existing at the end of the evaluated contract period will be considered in the evaluation of offers.

(End of clause)

552.252–5 Authorized Deviations in Provisions.

As prescribed in 552.107–70(a), insert the following provision:

Authorized Deviations in Provisions (Deviation FAR 52.252–5) (Sep 1999)

(a) *Deviations to FAR provisions.*

(1) This solicitation indicates any authorized deviation to a Federal Acquisition Regulation (48 CFR Chapter 1) provision by the addition of ''(DEVIATION)'' after the date of the provision, if the provision is not published in the General Services

Administration Acquisition Regulation (48 CFR Chapter 5).

(2) This solicitation indicates any authorized deviation to a Federal Acquisition Regulation (FAR) provision that is published in the General Services Administration Acquisition Regulation by the addition of ''(DEVIATION (FAR provision no.))'' after the date of the provision.

(b) *Deviations to GSAR provisions.* This solicitation indicates any authorized deviation to a General Services Administration Acquisition Regulation provision by the addition of ''(DEVIATION)'' after the date of the provision.

(c) ''*Substantially the same as*'' *provisions.* Changes in wording of provisions prescribed for use on a ''substantially the same as'' basis are not considered deviations.

(End of provision)

552.252–6 Authorized Deviations in Clauses.

As prescribed in 552.107–70(b), insert the following clause:

Authorized Deviations in Clauses (Deviation FAR 52.252–6) (Sep 1999)

(a) *Deviations to FAR clauses.*

(1) This solicitation or contract indicates any authorized deviation to a Federal Acquisition Regulation (48 CFR Chapter 1) clause by the addition of ''(DEVIATION)'' after the date of the clause, if the clause is not published in the General Services Administration Acquisition Regulation (48 CFR Chapter 5).

(2) This solicitation indicates any authorized deviation to a Federal Acquisition Regulation (FAR) clause that is published in the General Services Administration Acquisition Regulation by the addition of ''(DEVIATION (FAR clause no.))'' after the date of the clause.

(b) *Deviations to GSAR clauses:* This solicitation indicates any authorized deviation to a General Services Administration Acquisition Regulation clause by the addition of ''(DEVIATION)'' after the date of the clause.

(c) ''*Substantially the same as*'' *clauses.* Changes in wording of clauses prescribed for use on a ''substantially the same as'' basis are not considered deviations.

(End of clause)

552.270–1 Instructions to Offerors—Acquisition of Leasehold Interests in Real Property.

As prescribed in 570.602, insert the following provision:

Instructions to Offerors—Acquisition of Leasehold Interests in Real Property (Mar 1998)

(a) Definitions. As used in this provision—

''Discussions'' are negotiations that occur after establishment of the competitive range that may, at the contracting Officer's discretion, result in the offeror being allowed to revise its proposal.

''In Writing'' or ''Written'' means any worded or numbered expression which can be read, reproduced, and later communicated, and includes electronically transmitted and stored information.

''Proposal modification'' is a change made to a proposal before the solicitation's closing date and time, or made in response to an amendment, or made to correct a mistake at any time before award.

''Proposal revision'' is a change to a proposal made after the solicitation closing date, at the request of as allowed by a Contracting Officer as the result or of negotiations.

''Time,'' if stated as a number of days, is calculated using calendar days, unless otherwise specified, and will include Saturdays, Sundays, and legal holidays. However, if the last day falls on a Saturday, Sunday, or legal holiday, then the period shall include the next working day.

(b) Amendments to solicitations. If this solicitation is amended, all terms and conditions that are not amended remain unchanged. Offerors shall acknowledge receipt of any amendment to this solicitation by the date and time specified in the amendment(s).

(c) Submission, modification, revision, and withdrawal of proposals.

(1) Unless other methods (e.g., electronic commerce or facsimile) are permitted in the solicitation, proposals and modifications to proposals shall be submitted in paper media in sealed envelopes or packages. Offers must be:

(i) Submitted on the forms prescribed and furnished by the Government as a part of this solicitation or on copies of those forms, and

(ii) Signed. The person signing an offer must initial each erasure or change appearing on any offer form. If the offeror is a partnership, the names of the partners composing the firm must be included with the offer.

(2) Late proposals and revisions.

(i) The Government will not consider any proposal received at the office designated in the solicitation after the exact time specified for receipt of offers unless it is received before the Government makes award and it meets at least one of the following conditions:

(A) It was sent by registered or certified mail not later than the 5th calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th).

(B) It was sent by mail (or telegram or facsimile, if authorized) or hand-carried (including delivery by a commercial carrier) if it is determined by the Government that the late receipt was due primarily to Government mishandling after receipt at the Government installation.

(C) It was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term ''working days'' excludes weekends and U.S. Federal holidays.

(D) It was transmitted through an electronic commerce method authorized by the solicitation and was received at the initial point of entry of the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of proposals.

(E) There is acceptable evidence to establish that it was received at the activity designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers, and the Contracting Officer determines that accepting the late offer would not unduly delay the procurement.

(F) It is the only proposal received.

(ii) Any modification or revision of a proposal or response to request for information, including any final proposal revision, is subject to the same conditions as in subparagraphs (c)(2)(i)(A) through (c)(2)(i)(E) of this provision.

(iii) The only acceptable evidence to establish the date of mailing of a late proposal or modification or revision sent either by registered or certified mail is the U.S. or Canadian Postal Service postmark both on the envelope or wrapper and on the original receipt from the U.S. or Canadian Postal Service. Both postmarks must show a legible date or the proposal, response to a request for information, or modification or revision shall be processed as if mailed late. ''Postmark'' means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. or Canadian Postal Service on the date of mailing. Therefore, offerors or respondents should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and the envelope or wrapper.

(iv) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the proposal wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(v) The only acceptable evidence to establish the date of mailing of a late offer, modification or revision, or withdrawal sent by Express Mail Next Day Service-Post Office to Addressee is the date entered by the post office receiving clerk on the ''Express Mail Next Day Service-Post Office to Addressee'' label and the postmark on both the envelope or wrapper and on the original receipt from the U.S. Postal Service, ''Postmark'' has the same meaning as defined in paragraph (c)(2)(iii) of this provision, excluding postmarks of the Canadian Postal Service. Therefore, offerors or respondents should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and the envelope or wrapper.

(vi) Notwithstanding paragraph (c)(2)(i) of this provision, a late modification or revision of an otherwise successful proposal that makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

(vii) An offeror may withdraw its proposal by written notice or telegram (including mailgram) received at any time before award. If the solicitation authorizes facsimile proposals, an offeror may withdraw its proposal via facsimile received at any time

before award, subject to the conditions specified in the provision entitled ''Facsimile Proposals.'' Proposals may be withdrawn in person by an offeror or an authorized representative, if the representative's identity is made known and the representative signs a receipt for the proposal before award.

(viii) If an emergency or unanticipated event interrupts normal Government processes so that proposals cannot be received at the office designated for receipt of proposals by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation or other notice of an extension of the closing date, the time specified for receipt of proposals will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office.

(3) Any information given to a prospective offeror concerning this solicitation will be furnished promptly to all other prospective offerors, if that information is necessary in submitting offers or if the lack of it would be prejudicial to any other prospective offeror.

(4) Offerors may submit modifications to their proposals at any time before the solicitation closing date and time, and may submit modifications in response to an amendment, or to correct a mistake at any time before award.

(5) Offerors may submit revised proposals only if requested or allowed by the Contracting Officer.

(6) The Government will construe an offer to be in full and complete with this solicitation unless the offer describes any deviation in the offer.

(7) Offerors may submit proposals that depart from stated requirements. Such a proposal shall clearly identify why the acceptance of the proposal would be advantageous to the Government. The proposal must clearly identify and explicitly define any deviations from the terms and conditions of the solicitation, as well as the comparative advantage to the Government. The Government reserves the right to amend the solicitation to allow all offerors an opportunity to submit revised proposals based on the revised requirements.

(d) Restriction on disclosure and use of data. An offeror that includes in its proposal data that it does not want disclosed to the public for any purpose, or use by the Government except for evaluation purposes, must meet both of the following conditions:

(1) Mark the title page with the following legend:

This proposal includes data that shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed—in whole or in part—for any purpose other than to evaluate this proposal. If, however, a lease is awarded to this offeror as a result of—or in connection with—the submission of this data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in sheets [insert numbers or other identification of sheets].

(2) Mark each sheet of data it wishes to restrict with the following legend:

Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal.

(e) Lease award.

(1) The Government intends to award a lease resulting from this solicitation to the responsible offeror whose proposal represents the best value after evaluation in accordance with the factors and subfactors in the solicitation.

(2) The Government may reject any or all proposals if such action is in the Government's interest.

(3) The Government may waive informalities and minor irregularities in proposals received.

(4) The Government intends to evaluate proposals and award a lease after conducting discussions with offerors whose proposals have been determined to be within the competitive range. If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals. Therefore, the offeror's initial proposal should contain the offeror's best terms from a price and technical standpoint.

(5) Exchanges with offerors after receipt of a proposal do not constitute a rejection or counteroffer by the Government.

(6) The Government may determine that a proposal is unacceptable if the price proposed are materially unbalanced between line terms or subline items. Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more contract line items is significantly overstated or understand as indicated by the application of cost or price analysis techniques. A proposal may be rejected if the Contracting Officer determines that the lack of balance poses an unacceptable risk to the Government.

(7) The unconditional written acceptance of an offer establishes a valid contract.

(8) The Government may disclose the following information in postaward debriefings to other offerors:

(i) The overall evaluated cost or price and technical rating of the successful offeror;

(ii) The overall making of all offerors, when any making was developed by the agency during source selection; and

(iii) A summary of the rationale for award.

(End of provision)

Alternate I (MAR 1998). As prescribed in 570.602, substitute the following paragraph for paragraph (c)(2)(i) of the basic provision:

(i) Any offer received at the office designated in the solicitation after the exact time specified for receipt of final proposal revisions will not be considered unless it is received before award is made and it meets one of the following conditions—

Alternate II (MAR 1998). As prescribed in 570.602, substitute the following paragraph for paragraph (e)(4) of the basic provision:

(4) The Government intends to evaluate proposals and award a lease without discussions with offerors (except clarifications as described in FAR 15.306(a)). Therefore, the offeror's initial proposal should contain the offeror's best terms from a cost or price and technical standpoint. The Government reserves the right to conduct discussions if the Contracting Officer later determines them to be necessary. If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals.

552.270–2 Historic Preference.

As prescribed in 570.602, insert the following provision:

Historic Preference (Sep 1999)

(a) The Government will give preference to offers of space in buildings on, or formally listed as eligible for inclusion in, the National Register of Historic Places and to historically significant buildings in historic districts listed in the National Register. This preference extends to historic buildings and will result in award if both of the following are met:

(1) The offer for space meets the terms and conditions of this solicitation as well as any other offer received. The Contracting Officer has discretion to accept alternatives to certain architectural characteristics and safety features defined elsewhere in this solicitation to maintain the historical integrity of the building such as high ceilings, wooden floors, etc.

(2) The rental is no more than 10 percent higher on a total annual usable square foot cost to the Government than the lowest otherwise acceptable offer.

(b) If the Government receives more than one offer of an historic building and they meet the above criteria, the Government will award to the lowest priced historic property offered.

(End of provision)

552.270–3 Parties to Execute Lease.

As prescribed in 570.602, insert the following provision:

Parties to Execute Lease (Sep 1999)

(a) If the lease is executed by an attorney, agent, or trustee on behalf of the Lessor, an authenticated copy of his power of attorney, or other evidence to act on behalf of the Lessor, shall accompany the lease.

(b) If the Lessor is a partnership, the lease shall be signed with the partnership name, followed by the name of the legally authorized partner signing the same, and, if requested by the Government, a copy of either the partnership agreement or current Certificate of Limited Partnership shall accompany the lease.

(c) If the Lessor is a corporation, the lease shall be signed with the corporate name,

followed by the signature and title of the officer or other person signing the lease on its behalf, duly attested, and, if requested by the Government, evidence of this authority to so act shall be furnished.

(End of provision)

552.270–4 Definitions.

As prescribed in 570.603, insert the following clause:

Definitions (Sep 1999)

The following terms and phrases (except as otherwise expressly provided or unless the context otherwise requires) for all purposes of this lease shall have the respective meanings hereinafter specified:

(a) ''Commencement Date'' means the first day of the term.

(b) ''Contract'' and ''Contractor'' means ''Lease'' and ''Lessor,'' respectively.

(c) ''Contracting Officer'' means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.

(d) ''Delivery Date'' means the date specified in or determined pursuant to the provisions of this lease for delivery of the premises to the Government, improved in accordance with the provisions of this lease and substantially complete, as such date may be modified in accordance with the provisions of this lease.

(e) ''Delivery Time'' means the number of days provided by this lease for delivery of the premises to the Government, as such number may be modified in accordance with the provision so this lease.''

(f) ''Excusable Delays'' means delays arising without the fault or negligence of Lessor and Lessor's subcontractors and suppliers at any tier, and shall include, without limitation:

(1) acts of God or of the public enemy,

(2) acts of the United States of America in either its sovereign or contractual capacity,

(3) acts of another contractor in the performance of a contract with the Government,

(4) fires,

(5) floods,

(6) epidemics,

(7) quarantine restrictions,

(8) strikes,

(9) freight embargoes,

(10) unusually severe weather, or

(11) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Lessor and any such subcontractor or supplier.

(g) ''Lessor'' means the sub-lessor if this lease is a sublease.

(h) ''Lessor shall provide'' means the Lessor shall furnish and install at Lessor's expense.

(i) ''Notice'' means written notice sent by certified or registered mail, Express Mail or Comparable service, or delivered by hand. Notice shall be effective on the date delivery is accepted or refused.

(j) ''Premises'' means the space described in this lease.

(k) ''Substantially complete'' and ''substantial completion'' means that the work, the common and other areas of the building, and all other things necessary for the Government's access to the premises and occupancy, possession, use and enjoyment thereof, as provided in this lease, have been completed or obtained, excepting only such minor matters as do not interfere with or materially diminish such access, occupancy, possession, use of enjoyment.

(l) ''Usable square feet'' means the ANSI/BOMA Z65.1–1996 definition for BOMA usable office area, which means ''The area where a tenant normally houses personnel and/or furniture, for which a measurement is to be computed.''

(m) ''Work'' means all alterations, improvements, modifications, and other things required for the preparation or continued occupancy of the premises by the Government as specified in this lease.

(End of clause)

5512.270–5 Subletting and Assignment.

As prescribed in 570.603, insert the following clause:

Subletting and Assignment (Sep 1999)

The Government may sublet any part of the premises but shall not be relieved from any obligations under this lease by reason of any such subletting. The Government may at any time assign this lease, and be relieved from all obligations to Lessor under this lease excepting only unpaid rent and other liabilities, if any that have accrued to the date of said assignment. Any assignment shall be subject to prior written consent of Lessor, which shall not be unreasonably withheld.

(End of clause)

552.270–6 Maintenance of Building and Premises—Right of Entry.

As prescribed in 570.603, insert the following clause:

Maintenance of Building and Premises—Right of Entry (Sep 1999)

Except in case of damage arising out of the willful act or negligence of a Government employee, Lessor shall maintain the premises, including the building and all equipment, fixtures, and appurtenances furnished by the lessor under this lease, in good repair and condition so that they are suitable in appearance and capable of supplying such heat, air conditioning, light, ventilation, access and other things to the premises, without reasonably preventable or recurring disruption, as is required for the Government's access to, occupancy, possession, use and enjoyment of the premises as provided in this lease. For the purpose of so maintaining the premises, the Lessor may at reasonable times enter the premises with the approval of the authorized Government representative in charge.

(End of clause)

552.270–7 Fire and Casualty Damage.

As prescribed in 570.603, insert the following clause:

Fire and Casualty Damage (Sep 1999)

If the entire premises are destroyed by fire or other casualty, this lease will immediately terminate. In case of partial destruction or damage, so as to render the premises untenantable, as determined by the Government, the Government may terminate the lease by giving written notice to the Lessor within 15 calendar days of the fire or other casualty; if so terminated, no rent will accrue to the Lessor after such partial destruction or damage; and if not so terminated, the rent will be reduced proportionately by supplemental agreement hereto effective from the date of such partial destruction or damage. Nothing in this lease shall be construed as relieving Lessor from liability for damage to or destruction of property of the United States of America caused by the willful or negligent act or omission of Lessor.

(End of clause)

552.270–8 Compliance with Applicable Law.

As prescribed in 570.603, insert the following clause:

Compliance With Applicable Law (Sep 1999)

Lessor shall comply with all Federal, state and local laws applicable to the Lessor as owner or lessor, or both, of the building or premises, including, without limitation, laws applicable to the construction, ownership, alteration or operation of both or either thereof, and will obtain all necessary permits, licenses and similar items at Lessor's expense. The Government will comply with all Federal, state and local laws applicable to and enforceable against it as a tenant under this lease; provided that nothing in this lease shall be construed as a waiver of any sovereign immunity of the Government. This lease shall be governed by Federal law.

(End of clause)

552.270–9 Inspection—Right of Entry.

As prescribed in 570.603, insert the following clause:

Inspection—Right of Entry (Sep 1999)

(a) At any time and from time to time after receipt of an offer (until the same has been duly withdrawn or rejected), after acceptance thereof and during the term, the agents, employees and contractors of the Government may, upon reasonable prior notice to Offeror or Lessor, enter upon the offered premises or the premises, and all other areas of the building access to which is necessary to accomplish the purposes of entry, to determine the potential or actual compliance by the Offeror or Lessor with the requirements of the solicitation or this lease, which purposes shall include, but not be limited to:

(1) Inspecting, sampling and analyzing suspected asbestos-containing materials and air monitoring for asbestos fibers;

(2) Inspecting the heating, ventilation and air conditioning system, maintenance records, and mechanical rooms for the offered premises or the premises;

(3) Inspecting for any leaks, spills, or other potentially hazardous conditions which may

involve tenant exposure to hazardous or toxic substances; and

(4) Inspecting for any current or past hazardous waste operations, to ensure that appropriate mitigative actions were taken to alleviate any environmentally unsound activities in accordance with Federal, State and local law.

(b) Nothing in this clause shall be construed to create a Government duty to inspect for toxic materials or to impose a higher standard of care on the Government than on other lessees. The purpose of this clause is to promote the ease with which the Government may inspect the building. Nothing in this clause shall act to relieve the Lessor of any duty to inspect or liability which might arise as a result of Lessor's failure to inspect for or correct a hazardous condition.

(End of clause)

552.270–10 Failure in Performance.

As prescribed in 570.603, insert the following clause:

Failure in Performance (Sep 1999)

The covenant to pay rent and the covenant to provide any service, utility, maintenance, or repair required under this lease are interdependent. In the event of any failure by the Lessor to provide any service, utility, maintenance, repair or replacement required under this lease the Government may, by contract or otherwise, perform the requirement and deduct from any payment or payments under this lease, then or thereafter due, the resulting cost to the Government, including all administrative costs. If the Government elects to perform any such requirement, the Government and each of its contractors shall be entitled to access to any and all areas of the building, access to which is necessary to perform any such requirement, and the Lessor shall afford and facilitate such access. Alternatively, the Government may deduct from any payment under this lease, then or thereafter due, an amount which reflects the reduced value of the contract requirement not performed. No deduction from rent pursuant to this clause shall constitute a default by the Government under this lease. These remedies are not exclusive and are in addition to any other remedies which may be available under this lease or at law.

(End of clause)

552.270–11 Successors Bound.

As prescribed in 570.603, insert the following clause:

Successors Bound (Sep 1999)

This lease shall bind, and inure to the benefit of, the parties and their respective heirs, executors, administrators, successors and assigns.

(End of clause)

552.270–12 Alterations.

As prescribed in 570.603, insert the following clause:

Alterations (Sep 1999)

The Government shall have the right during the existence of this lease to make alterations, attach fixtures, and erect structures or signs in or upon the premises hereby leased, which fixtures, additions or structures so placed in, on, upon, or attached to the said premises shall be and remain the property of the Government and may be removed or otherwise disposed of by the Government. If the lease contemplates that the Government is the sole occupant of the building, for purposes of this clause, the leased premises include the land on which the building is sited and the building itself. Otherwise, the Government shall have the right to tie into or make any physical connection with any structure located on the property as is reasonably necessary for appropriate utilization of the leased space.

(End of clause)

552.270–13 Proposals for Adjustment.

As prescribed in 570.603, insert the following clause:

Proposals for Adjustment (Sep 1999)

(a) The Contracting Officer may, from time to time during the term of this lease, require changes to be made in the work or services to be performed and in the terms or conditions of this lease. Such changes will be required under the Changes clause.

(b) If the Contracting Officer makes a change within the general scope of the lease, the Lessor shall submit, in a timely manner, an itemized cost proposal for the work to be accomplished or services to be performed when the cost exceeds $100,000. The proposal, including all subcontractor work, will contain at least the following details—

(1) Material quantities and unit costs;

(2) Labor costs (identified with specific item or material to be placed or operation to be performed);

(3) Equipment costs;

(4) Worker's compensation and public liability insurance;

(5) Overhead;

(6) Profit; and

(7) Employment taxes under FICA and FUTA.

(c) The following Federal Acquisition Regulation (FAR) provisions also apply to all proposals exceeding $500,000 in cost—

(1) The Lessor shall provide cost or pricing data including subcontractor cost or pricing data (48 CFR 15.403–4); and

(2) The Lessor's representative, all Contractors, and subcontractors whose portion of the work exceeds $500,000 must sign and return the ''Certificate of Current Cost or Pricing Data'' (48 CFR 15.406–2).

(d) Lessors shall also refer to 48 CFR Part 31, Contract Cost Principles, for information on which costs are allowable, reasonable, and allocable in Government work.

(End of clause)

552.270–14 Changes.

As prescribed in 570.603, insert the following clause:

Changes (Sep 1999)

(a) The Contracting Officer may at any time, by written order, make changes within the general scope of this lease in any one or more of the following:

(1) Specifications (including drawings and designs).

(2) Work or services.

(3) Facilities or space layout.

(4) Amount of space, provided the Lessor consents to the change.

(b) If any such change causes an increase or decrease in Lessor's cost of or the time required for performance under this lease, whether or not changed by the order, the Contracting Officer shall modify this lease to provide for one or more of the following:

(1) A modification of the delivery date.

(2) An equitable adjustment in the rental rate.

(3) A lump sum equitable adjustment.

(4) An equitable adjustment of the annual operating costs per usable square foot specified in this lease.

(c) The Lessor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the change order and must submit a proposal for adjustment. Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause excuses the lessor from proceeding with the change as directed.

(d) Absent such written change order, the Government is not liable to Lessor under this clause.

(End of clause)

552.270–15 Liquidated Damages.

As prescribed in 570.603, insert the following clause:

Liquidated Damages (Sep 1999)

In case of failure on the part of the Lessor to complete the work within the time fixed in the lease contract or letter of award, the Lessor shall pay the Government as fixed and agreed liquidated damages, pursuant to this clause, the sum $_____ for each and every calendar day that the delivery is delayed beyond the date specified for delivery of all the space ready for occupancy by the Government. this remedy is not exclusive and is in addition to any other remedies which may be available under this lease or at law.

(End of clause)

552.270–16 Adjustment for Vacant Premises.

As prescribed in 570.603, insert the following clause:

Adjustment for Vacant Premises (Sep 1999)

(a) If the Government fails to occupy any portion of the leased premises or vacates the premises in whole or in part before the lease term expires, the rental rate will be reduced.

(b) The rental rate will be reduced by that portion of the costs per usable square foot of operating expenses not required to maintain the space. The reduction takes effect 30 calendar days after the Government gives notice to the Lessor, and continues in effect until the Government occupies the premises or the lease expires or is terminated.

(End of clause)

552.270–17 Delivery and Condition.

As prescribed in 570.603, insert the following clause:

Delivery and Condition (Sep 1999)

(a) Unless the Government elects to have the space occupied in increments, the space must be delivered ready for occupancy as a complete unit. The Government reserves the right to determine when the space is substantially complete.

(b) If the premises do not in every respect comply with the provisions of this lease the Contracting Officer may, in accordance with the Failure in Performance clause of this lease, elect to reduce the rent payments.

(End of clause)

552.270–18 Default in Delivery—Time Extensions.

As prescribed in 570.603, insert the following clause:

Default In Delivery—Time Extensions (Sep 1999)

(a) With respect to Lessor's obligation to deliver the premises substantially complete by the delivery date, time is of the essence. If the Lessor fails to work diligently to ensure its substantial completion by the delivery date or fails to substantially complete the work by such date, the Government may by notice to the Lessor terminate this lease. Such termination is effective when received by Lessor. The Lessor and the Lessor's sureties, if any, are jointly and severally liable for any damages to the Government resulting from such termination, as provided in this clause. The Government is entitled to the following damages:

(1) The Government's aggregate rent, estimated real estate tax, and operating cost adjustments for the firm term and all option terms of its replacement lease or leases, in excess of the aggregate rent and estimated real estate tax and operating cost adjustments for the term. If the Government procures replacement premises for a term (including all option terms) in excess of this lease term, the Lessor is not liable for excess Government rent or adjustments during such excess lease term.

(2) All administrative and other costs the Government incurs in procuring a replacement lease or leases.

(3) Other, additional relief provided for in this lease, at law, or in equity.

(b) Damages to which the Government is entitled under this clause are due and payable thirty (30) days following the date Lessor receives notice from the Contracting Officer specifying such damages.

(c) Delivery by Lessor of less than the minimum usable square footage required by this lease shall in no event be construed as substantial completion, except as the Contracting Officer permits.

(d) The Government shall not terminate this lease under this clause nor charge the Lessor with damages under this clause, if (1) the delay in substantially completing the work arises from excusable delays, and (2) the Lessor within 10 days from the beginning of any such delay (unless extended in writing by the Contracting Officer) provides notice to the Contracting Officer of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of delay. If the facts warrant, the Contracting Officer shall extend the delivery date, to the extent of such delay at no additional costs to the Government. A time extension is the sole remedy of the Lessor.

(End of clause)

552.270–19 Progressive Occupancy.

As prescribed in 570.603, insert the following clause:

Progressive Occupancy (Sep 1999)

The Government shall have the right to elect to occupy the space in partial increments prior to the substantial completion of the entire leased premises, and the Lessor agrees to schedule its work so as to deliver the space incrementally as elected by the Government. The Government shall pay rent commencing with the first business day following substantial completion of the entire leased premise unless the Government has elected to occupy the leased premises incrementally. In case of incremental occupancy, the Government shall pay rent pro rata upon the first business day following substantial completion of each incremental unit. Rental payments shall become due on the first workday of the month following the month in which an increment of space is substantially complete, except that should an increment of space be substantially completed after the fifteenth day of the month, the payment due date will be the first workday of the second month following the month in which it was substantially complete. The commencement date of the firm lease term will be a complete determined from all rent commencement dates.

(End of clause)

552.270–20 Payment.

As prescribed in 570.603, insert the following clause:

Payment (Sep 1999)

(a) When space is offered and accepted, usable square footage delivered will be confirmed by either:

(1) The Government's measurement of plans submitted by the successful offeror as approved by the Government, and an inspection of the space to verify that the delivered space conforms with such plans.

(2) A mutual on-site measurement of the space if the Contracting Officer determines it necessary.

(b) The Government will not pay for space in excess of the amount of usable square footage stated in the lease.

(c) If the amount of usable square footage delivered is less than the amount agreed to in the lease, the lease will be modified to reflect the amount of usable space delivered and the annual rental will be adjusted as follows:

Usable square feet (USF) not delivered multiplied by one plus the common area factor (CAF), multiplied by the rate per rentable square foot (RSF). That is:

USF X(1+CAF) X Rate per RSF=Reduction in Annual Rent.

(End of clause)

552.270–21 Effect of Acceptance and Occupancy.

As prescribed in 570.603, insert the following clause:

Effect of Acceptance and Occupancy (Sep 1999)

Neither the Government's acceptance of the premises for occupancy, nor the Government's occupancy thereof, shall be construed as a waiver of any requirement of or right of the Government under this Lease, or as otherwise prejudicing the Government with respect to any such requirement or right.

(End of clause)

552.270–22 Default by Lessor During the Term.

As prescribed in 570.603, insert the following clause:

Default By Lessor During the Term (Sep 1999)

(a) Each of the following shall constitute a default by Lessor under this lease:

(1) Failure to maintain, repair, operate or service the premises as and when specified in this lease, or failure to perform any other requirement of this lease as and when required provided any such failure shall remain uncured for a period of thirty (30) days next following Lessor's receipt of notice thereof from the Contracting Officer or an authorized representative.

(2) Repeated and unexcused failure by Lessor to comply with one or more requirements of this lease shall constitute a default notwithstanding that one or all such failures shall have been timely cured pursuant to this clause.

(b) If a default occurs, the Government may, by notice to Lessor, terminate this lease for default and if so terminated, the Government shall be entitled to the damages specified in the Default in Delivery-Time Extensions clause.

(End of clause)

552.270–23 Subordination, Nondisturbance and Attornment.

As prescribed in 570.603, insert the following clause:

Subordination, Nondisturbance and Attornment (Sep 1999)

(a) Lessor warrants that it holds such title to or other interest in the premises and other property as is necessary to the Government's access to the premises and full use and enjoyment thereof in accordance with the provisions of this lease. Government agrees, in consideration of the warranties and conditions set forth in this clause, that this lease is subject and subordinate to any and all recorded mortgages, deeds of trust and other liens now or hereafter existing or imposed upon the premises, and to any renewal, modification or extension thereof. It is the intention of the parties that this provision shall be self-operative and that no further instrument shall be required to effect the present or subsequent subordination of this lease. Government agrees, however, within twenty (20) business days next

following the Contracting Officer's receipt of a written demand, to execute such instruments as Lessor may reasonably request to evidence further the subordination of this lease to any existing or future mortgage, deed of trust or other security interest pertaining to the premises, and to any water, sewer or access easement necessary or desirable to serve the premises or adjoining property owned in whole or in part by Lessor if such easement does not interfere with the full enjoyment of any right granted the Government under this lease.

(b) No such subordination, to either existing or future mortgages, deeds of trust or other lien or security instrument shall operate to affect adversely any right of the Government under this lease so long as the Government is not in default under this lease. Lessor will include in any future mortgage, deed of trust or other security instrument to which this lease becomes subordinate, or in a separate nondisturbance agreement, a provision to the foregoing effect. Lessor warrants that the holders of all notes or other obligations secured by existing mortgages, deeds of trust or other security instruments have consented to the provisions of this clause, and agrees to provide true copies of all such consents to the Contracting Officer promptly upon demand.

(c) In the event of any sale of the premises or any portion thereof by foreclosure of the lien of any such mortgage, deed of trust or other security instrument, or the giving of a deed in lieu of foreclosure, the Government will be deemed to have attorned to any purchaser, purchasers, transferee or transferees of the premises or any portion thereof and its or their successors and assigns, and any such purchasers and transferees will be deemed to have assumed all obligations of the Lessor under this lease, so as to establish direct privity of estate and contract between Government and such purchasers or transferees, with the same force, effect and relative priority in time and right as if the lease had initially been entered into between such purchasers or transferees and the Government; provided, further, that the Contracting Officer and such purchasers or transferees shall, with reasonable promptness following any such sale or deed delivery in lieu of foreclosure, execute all such revisions to this lease, or other writings, as shall be necessary to document the foregoing relationship.

(d) None of the foregoing provisions may be deemed or construed to imply a waiver of the Government's rights as a sovereign.

(End of clause)

552.270–24 Statement of Lease.

As prescribed in 570.603, insert the following clause:

Statement of Lease (Sep 1999)

(a) The Contracting Officer will, within thirty (30) days next following the Contracting Officer's receipt of a joint written request from Lessor and a prospective lender or purchaser of the building, execute and deliver to Lessor a letter stating that the same is issued subject to the conditions stated in this clause and, if such is the case, that (1) the lease is in full force and effect; and (2) the date to which the rent and other charges have been paid in advance, if any; and (3) whether any notice of default has been issued.

(b) Letters issued pursuant to this clause are subject to the following conditions:

(1) That they are based solely upon a reasonably diligent review of the Contracting Officer's lease file as of the date of issuance;

(2) That the Government shall not be held liable because of any defect in or condition of the premises or building;

(3) That the Contracting Officer does not warrant or represent that the premises or building comply with applicable Federal, State and local law; and

(4) That the Lessor, and each prospective lender and purchaser are deemed to have constructive notice of such facts as would be ascertainable by reasonable prepurchase and precommitment inspection of the Premises and Building and by inquiry to appropriate Federal, State and local Government officials.

(End of clause)

552.270–25 Substitution of Tenant Agency.

As prescribed in 570.603, insert the following clause:

Substitution of Tenant Agency (Sep 1999)

The Government may, at any time and from time to time, substitute any Government agency or agencies for the Government agency or agencies, if any, named in the lease.

(End of clause)

552.270–26 No Waiver.

As prescribed in 570.603, insert the following clause:

No Waiver (Sep 1999)

No failure by either party to insist upon the strict performance of any provision of this lease or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial rent or other performance by either party during the continuance of any such breach shall constitute a waiver of any such breach of such provision.

(End of clause)

552.270–27 Integrated Agreement.

As prescribed in 570.603, insert the following clause:

Integrated Agreement (Sep 1999)

This Lease, upon execution, contains the entire agreement of the parties and no prior written or oral agreement, express or implied, shall be admissible to contradict the provisions of the Lease.

(End of clause)

552.270–28 Mutuality of Obligation.

As prescribed in 570.603, insert the following clause:

Mutuality of Obligation (Sep 1999)

The obligations and covenants of the Lessor, and the Government's obligation to pay rent and other Government obligations and covenants, arising under or related to this Lease, are interdependent. The Government may, upon issuance of and delivery to Lessor of a final decision asserting a claim against Lessor, set off such claim, in whole or in part, as against any payment or payments then or thereafter due the Lessor under this lease. No setoff pursuant to this clause shall constitute a breach by the Government of this lease.

(End of clause)

552.270–29 Acceptance of Space.

As prescribed in 570.603, insert the following clause:

Acceptance of Space (Sep 1999)

(a) When the Lessor has completed all alterations, improvements, and repairs necessary to meet the requirements of the lease, the Lessor shall notify the Contracting Officer. The Contracting Officer or designated representative shall promptly inspect the space.

(b) The Government will accept the space and the lease term will begin after determining that the space is substantially complete and contains the required usable square footage as indicated in Paragraph 1.1, Amount and Type of Space, of this solicitation.

(End of clause)

PART 553 FORMS

Subpart 553.2 Illustrations of Forms

553.300 Scope of subpart.

Standard and GSA forms prescribed or referenced in the text of this chapter are illustrated in and made a part of the General Services Administration Acquisition Manual. The forms are not illustrated in Title 48, Chapter 5, of the Code of Federal Regulations. Copies may be obtained from the Director of the Office of GSA Acquisition Policy (MVP), 1800 F Street, NW, Washington, DC 20405.

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SUBCHAPTER I—SPECIAL CONTRACTING PROGRAMS

PART 570 ACQUIRING LEASEHOLD INTERESTS IN REAL PROPERTY

Subpart 570.1 General

570.101 Applicability.

(a) This part applies to acquisitions of leasehold interests in real property except:

(1) Leasehold interests acquired by the power of eminent domain or by donation.

(2) Acquisition of leasehold interests in bare or unimproved land.

(b) In addition, the GSAR rules in the following table apply. Other provisions of 48 CFR Chapter 5 (GSAR) do not apply to leases of real property unless specifically cross-referenced in this part 570.

GSAR Rules Applicable to Acquisitions of Leasehold Interests in Real Property

501	514.201–7(b)	517.207	533
502	514.407	519.7	536.271
503	515.204–1	519.12	537.2
504.5	515.209–70	522.8	552
505	515.305	532.1	553
509.4	517.202	532.908	

570.102 Definitions.

Acquisition means the acquiring by lease of an interest in improved real property for use by the Federal Government, whether the space already exists or must be constructed.

Contract means lease.

Contractor means lessor.

Landlord or *lessor* means any individual, firm, partnership, trust, association, State or local government, or other legal entity that leases real property to the Government.

Lease or *leasehold interest in real property* means a conveyance to the Government of the right of exclusive possession of real property for a definite period of time by a landlord. It may include operational services provided by the landlord.

Lessee or *tenant* means the United States of America.

Operational services means services that support use of a leased property, such as heating, ventilation, air condition, utilities, and custodial services.

Rent and related services means that consideration paid for the use of leased property plus the costs of operational services whether furnished by the lessor, the Government, or both.

Simplified lease acquisition procedures mean the procedures for awarding leases at or below the simplified lease acquisition threshold.

Simplified lease acquisition threshold Means $100,000 average annual rent for the term of the lease, including option periods and excluding the cost of operational services.

Small business means a concern including affiliates, which is organized for profit, is independently-owned and operated, is not dominant in the field of leasing commercial real estate, and has annual average gross receipts of $15 million or less for the preceding three fiscal years.

Solicitation for Offers (SFO) means invitation for bids in sealed bidding or request for proposals in negotiations.

Space in buildings means the premises leased, or to be leased, including improvements. Its quantity is normally expressed in square feet. It does not include space acquired by the power of eminent domain, donation, or condemnation, nor acquisitions of bare or unimproved land.

Substantially as follows or *substantially the same as,* when used in prescribing a provision or clause, means that you may prepare and use a variation of that provision or clause to accommodate requirements peculiar to an individual acquisition. The variation must include the salient features of the FAR or GSAR provision or clause. It must also be consistent with the intent, principle, and substance of the FAR or GSAR provision or clause and related coverage on the subject matter.

570.103 Authority to lease.

(a) The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(h)(1)), as amended, and Section 1 of the Reorganization Plan No. 18 of 1950 (40 U.S.C. 490 Note) authorize the Administrator of General Services to acquire leasehold interests in real property for use by Federal agencies. The authority is limited to leases for buildings and improvement that bind the Government for periods not exceeding 20 years.

(b) You have exclusive authority to enter into and administer leases on the Government's behalf to the extent provided in your certificate of appointment as a contracting officer.

570.104 Competition.

Unless you use the simplified procedures in subpart 570.2, the competition requirements of FAR part 6

apply to acquisition of leasehold interests in real property.

570.105 Methods of contracting.

570.105–1 Contracting by negotiation.

Contracting by negotiation is usually appropriate for acquiring space in a building through a lease contract. You will usually need to conduct discussions with offerors about their proposals and consider factors other than price in making the award.

570.105–2 Two-phase design-build selection procedures.

Unless you use another acquisition procedure authorized by law, you must use the two-phase design-build selection procedures in section 303M of the Federal Property and Administrative Services Act of 1949, as amended, for lease construction projects. This includes lease construction projects with options to purchase the real property leased. Use the procedures in section 303M when you meet the conditions in paragraphs (a) and (b) of this section:

(a) You anticipate the lease will involve the design and construction of a public building, facility, or work for lease to the Government.

(b) You determine the procedures are appropriate for entering into a lease construction contract based on the following:

(1) You expect to receive three or more offers.

(2) Offerors will need to perform design work before developing a price.

(3) Offerors will incur a substantial amount of expense in preparing offers.

(4) You consider criteria such as the following:

(i) The extent to which the project requirements have been adequately defined.

(ii) The time constraints for delivery of the project.

(iii) The capability and experience of potential contractors.

(iv) The suitability of the project for use of the two-phase selection procedures.

(v) The capability of the agency to manage the two-phase selection process.

(vi) Other criteria established by the HCA.

570.105–3 Sealed bidding.

For sealed bidding, use the procedures in FAR part 14. In most cases you should not use sealed bidding to acquire space in buildings unless you meet all the following conditions:

(a) You have a preselected site.

(b) A building will be constructed on the site using Government furnished plans and specifications.

(c) The Government will lease the building.

570.106 Publicizing/Advertising.

(a) Subparts 505.101, 505.202, and 505.203 define requirements for publicizing lease actions.

(b) Instead of issuing separate advertisements for multiple, known leasing actions, you may include the actions in one consolidated advertisement.

570.107 Oral presentations.

You may use oral presentations for acquisitions of leasehold interests in real property. Follow the procedures in FAR 15.102.

570.108 Responsibility determination.

(a) Determine that the prospective awardee is responsible with respect to the lease under consideration. The standards in FAR 9.104 apply. As part of the determination that a prospective contractor is otherwise qualified and eligible for award, review the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

(b) Your signature on the contract is deemed an affirmative determination.

(c) If you find an offeror nonresponsible, sign and place in the contract file a determination of nonresponsibility. State the basis for the determination.

(d) If you find a small business concern nonresponsible, the procedures at FAR 19.6 apply. Place all documents and reports supporting a determination of responsibility or nonresponsibility in the lease file.

570.109 Certifications.

Before awarding a lease, review applicable certifications for compliance with statute and regulations.

570.110 Cost or pricing data and information other than cost or pricing data.

(a) The policies and procedures of FAR 15.403 apply to lease contract actions.

(b) FAR 15.403–1 defines exceptions to and waivers for submitting cost or pricing data. Most leasing actions will have adequate price competition. For price analysis, you may use a market survey or an appraisal conducted using accepted real property appraisal procedures to establish a market price for comparison.

(c) In exceptional cases, the requirement for submission of certified cost or pricing data may be waived under FAR 15.403–1(c)(4).

(d) If cost or pricing data are required, follow the procedures in FAR 15.403–4 and 15.406–2.

570.111 Inspection and acceptance.

Before you accept space, obtain an inspection to ensure that the space complies with the Government's requirements and specifications. Document the inspection and acceptance in the contract file.

570.112 Awards to Federal employees.

If you receive an offer from an officer or employee of the Government, follow the procedures in FAR 3.6.

570.113 Disclosure of mistakes after award.

If you discover a mistake in a lessor's offer after award, follow the procedures in FAR 14.407–4 and subpart 514.407–4.

570.114 Protests.

FAR 33.1 and 533.1 apply to protests of lease acquisitions.

Subpart 570.2—Simplified Lease Acquisition Procedures

570.201 Purpose.

This subpart prescribes simplified procedures for small leases. These procedures reduce administrative costs, while improving efficiency and economy, when acquiring small leasehold interests in real property.

570.202 Policy.

Use simplified lease acquisition procedures to the maximum extent practicable for actions at or below the simplified lease acquisition threshold.

570.203 Procedures.

570.203–1 Market survey.

Conduct a market survey to identify potential sources. Use information available in GSA or from other sources to identify locations that will meet the Government's requirements.

570.203–2 Competition.

(a) Solicit at least three sources to promote competition to the maximum extent practicable. If you have repeated requirements for space in the same market, and if practicable, invite two sources not included in the most recent solicitation to submit offers.

(b) If you solicit only one source, document the file to explain the lack of competition.

570.203–3 Soliciting offers.

(a) Solicit offers by providing each prospective offeror a proposed short form lease or SFO. The short form lease or SFO must provide all the following information:

(1) A description of the Government's requirements.

(2) All award factors, including price or cost, and any significant subfactors you will consider in awarding the lease.

(3) A statement of the relative importance of the evaluation factors and subfactors.

(4) A statement of whether all evaluation factors other than cost or price, when combined, are either:

(i) Significantly more important than cost or price.

(ii) Approximately equal in importance to cost or price.

(iii) Significantly less important than cost or price.

(5) Either in full text or by reference, applicable FAR provisions and contract clauses required by 570.6.

(b) As necessary, review with prospective offerors the Government's requirements, pricing matters, evaluation procedures and submissions of offers.

570.203–4 Negotiations, evaluation, and award.

(a) If you need to conduct negotiations, use the procedures in 570.307.

(b) Evaluate offers in accordance with the solicitation. Evaluate prices and document the lease file to demonstrate whether the proposed contract prices are fair and reasonable.

(c) If the total price, including options, exceeds $500,000, consider whether you need cost and pricing data to determine that the price is fair and reasonable. In most cases the exceptions at FAR 15.403–1 will apply.

(d) If the total contract value of the lease, including options, will exceed $500,000, the proposed awardee must provide an acceptable small business subcontracting plan. This requirement does not apply if the proposed awardee is a small business concern.

(e) Make award to the responsible offeror whose proposal is most advantageous to the Government considering price and other factors included in the solicitation.

Subpart 570.3—Contracting Procedures for Leasehold Interests in Real Property

570.301 Market survey.

Conduct a market survey to identify potential sources. Use information available in GSA or from other sources to identify locations capable of meeting the Government's requirements.

570.302 Description of requirements.

(a) The description of requirements depends on the nature of the space the agency needs and the market available to satisfy that need.

(b) The description of requirements must include all the following:

(1) A statement of the purpose of the lease.

(2) Functional, performance, or physical requirements.

(3) Any special requirements.

(4) The delivery schedule.

(c) The description must promote full and open competition. Include restrictive provisions or conditions only to the extent necessary to satisfy the agency's needs or as authorized by law.

570.303 Solicitation for offers.

570.303–1 Preparing the SFO.

The SFO forms the basis for the lease negotiation process and becomes part of the lease. Document each SFO in writing or electronically. Include the information necessary to enable prospective offerors to prepare proposals. Each SFO, at a minimum, must provide all the following:

(a) Describe the Government's requirements.

(b) State the method the Government will use to measure space.

(c) Explain how to structure offers.

(d) Specify a date, time, and place for submission of offers.

(e) Explain how the Government will evaluate offers.

(f) Describe the source selection procedures the Government will use.

(g) Include a statement outlining the information the Government may disclose in debriefings.

(h) Include appropriate forms prescribed in 570.7.

570.302–3 Issuing the SFO.

Release the SFO to all prospective offerors at the same time.

570.303–3 Late offers, modifications of offers, and withdrawals of offers.

Follow the procedures in FAR 15.208.

570.303–4 Changes to SFOs.

(a) If the Government's requirements change, either before or after receipt of proposals, issue an amendment. Document the amendment using the same method as for the SFO, written or electronic.

(b) If time is critical, you may provide information on SFO amendments orally.

(1) Make a record of the information provided.

(2) Provide, or attempt to provide, the notice to all offerors or prospective offerors on the same day.

(3) Promptly confirm the information provided orally in a written amendment.

(c) Distribute an amendment as follows:

(1) If before the proposal due date, send the amendment to all prospective offerors who were sent a copy of the SFO.

(2) If after proposal receipt, send the amendment to each offeror who submitted a proposal.

(d) If an amendment is so substantial that it requires a complete revision of the SFO, cancel the SFO and issue a new one.

570.304 General source selection procedures.

(a) These procedures apply to acquisitions of leasehold interests except if you use either:

(1) Simplified lease acquisition procedures authorized by 570.2.

(2) Two-phase design-build selection procedures authorized by 570.105–2.

(b) The contracting officer is designated as the source selection official unless the HCA appoints another individual for a particular leasing action or group of leasing actions.

(c) You must include price or cost to the Government and past performance as evaluation factors in every case.

(d) The SFO must comply with FAR 15.304 and either:

(1) FAR 15.101–1 if you will use the tradeoff process.

(2) FAR 15.101–2 if you will use the lowest price technically acceptable source selection process.

570.305 Two-phase design-build selection procedures.

(a) These procedures apply to acquisitions of leasehold interests if you use the two-phase design-build selection procedures authorized by 570.105–2.

(b) The SFO must include all the following information:

(1) The scope of work.

(2) The evaluation factors and subfactors to be used in evaluating phase-one proposals and their relative importance.

(3) The maximum number of offerors to be selected to submit competitive proposals in phase-two.

(4) The evaluation factors, including cost or price, and subfactors to be used in evaluating phase-two proposals and selecting the successful offeror, and their relative importance.

(c) The following procedures apply to phase-one evaluation factors:

(1) Phase one factors include:

(i) Specialized experience and technical competence.

(ii) Capability to perform.

(iii) Past performance of the offeror's team (including architect-engineer and construction members of the team).

(iv) Other appropriate factors, such as site or location.

(2) Do not require offerors to submit detailed design information or cost or price information in phase one. Do not use cost related or price related evaluation factors.

(d) Set the maximum number of offerors to be selected for phase-two to not exceed five (5) unless you determine that a number greater than five is both:

(1) In the government's interest.

(2) Consistent with the purpose and objectives of the two-phase selection process.

(e) In phase-two, require detailed technical and price proposals. Evaluate the proposals using the procedures in 570.306.

570.306 Evaluating offers.

(a) You must evaluate offers solely in accordance with the factors and subfactors stated in the SFO.

(b) Evaluate prices and document the lease file to demonstrate that the proposed contract price is fair and reasonable.

(c) Evaluate past performance in accordance with FAR 15.305(a)(2).

(d) Document the evaluation of award factors other than price listed in the solicitation. The file must include the basis for evaluation, an analysis of each offer, and a summary of findings.

570.307 Negotiations.

(a) Follow the procedures in FAR 15.306 and 15.307 for exchanges (including clarifications, communications, negotiations, discussions, and revisions).

(b) Place a written record of all exchanges in the lease file.

(c) Provide prompt written notice to any offeror excluded from the competitive range or otherwise eliminated from the competition in accordance with FAR 15.503(a).

570.308 Award.

(a) Make award to the responsible offeror whose proposal represents the best value after evaluation in accordance with the factors and subfactors in the SFO.

(b) Make award in writing and in the timeframe specified in the SFO.

(1) If you cannot make an award in that time, request in writing from each offeror an extension of the acceptance period through a specific date.

(2) If time is critical, you may request the extensions orally. You must make a record of the requested and confirm it promptly in writing.

(c) Notify unsuccessful offerors in writing or electronically in accordance with FAR 15.501 and 15.503(b).

(d) The source selection authority may reject all proposals received in response to an SFO, if doing so is in the best interest of the Government.

570.309 Debriefings.

The procedures of FAR 15.505 and 15.506 apply to leasing actions.

Subpart 570.4—Special Aspects of Contracting for Continued Space Requirements

570.401 Renewal options.

(a) *Exercise of options.* Before exercising an option to renew, follow the procedures in 517.202 and 517.207. The contract must first provide the right to renew the lease.

(b) *Market survey.* Before exercising an option to renew a lease, review current market information to ensure the rental rate in the option is fair and reasonable.

570.402 Succeeding leases.

570.402–1 General.

(a) If a succeeding lease for the continued occupancy of space in a building does not exceed the simplified lease acquisition threshold, you may use the simplified procedures in 570.2. Explain the absence of competition in the contract file.

(b) If a succeeding lease will exceed the simplified lease acquisition threshold, you may enter into the lease under either of the following conditions:

(1) You do not identify any potential acceptable locations.

(2) You identify potential acceptable locations, but a cost-benefit analysis indicates that award to an offeror other than the present lessor will result in substantial relocation costs or duplication of costs to the Government, and the Government cannot expect to recover such costs through competition.

570.402–2 Publicizing/Advertising.

Publish a notice if required by 505.101(c). The notice should:

(a) Indicate the Government's lease is expiring.

(b) Describe the requirement in terms of type and quantity of space.

(c) Indicate the Government is interested in considering alternative space if economically advantageous.

(d) Advise prospective offerors that the Government will consider the cost of moving, alterations, etc., when deciding whether it should relocate.

(e) Provide a contact person for those interested in providing space to the Government.

570.402–3 Market survey.

Conduct a market survey following 570.301.

570.402–4 No potential acceptable locations.

If you do not identify any potential acceptable locations through the advertisement or the market survey, you may prepare a justification to negotiate directly with the present lessor. Fully document the efforts to locate alternative sources. Prepare the justification and obtain approval following FAR 6.3 and 506.3.

570.402–5 Potential acceptable locations.

If you identify potential acceptable locations through the advertisement or market survey, conduct a cost-benefit analysis following the procedures in 570.402–6. Based on the results of the cost-benefit analysis, take appropriate action as follows:

(a) If the cost-benefit analysis indicates that the Government will recover relocation costs and duplication of costs through competition, develop an SFO and negotiate with all interested parties following 570.3.

(b) If the cost-benefit analysis indicates that the Government cannot expect to recover relocation costs and duplication of costs through competition, prepare a justification for approval in accordance with FAR 6.3 and 506.3. Explain both:

(1) How you performed the cost-benefit analysis.

(2) That the cost-benefit analysis indicates that award to any other offeror will likely result in substantial costs to the Government that the Government cannot expect to recover through competition.

570.402–6 Cost-benefit analysis.

(a) The cost-benefit analysis must consider all the following:

(1) The prices of other potentially available properties.

(2) Relocation costs, including estimated costs for moving, telecommunications, and alterations, amortized over the firm term of the lease.

(3) Duplication of costs to the Government.

(4) Other appropriate considerations.

(b) Establish the prices for other potentially available properties by requesting each prospective offeror to provide an informational quotation for standard space for comparison purposes.

(1) Adjust the prices quoted for standard space for any special requirements.

(2) You do not need a formal SFO to obtain the informational quotation. However, you must provide a general description of the Government's needs.

(3) If you obtain oral quotations, document the following information, as a minimum:

(i) Name and address of the firm solicited.

(ii) Name of the firm's representative providing the quote.

(iii) Price(s) quoted.

(iv) Description of the space and services for which the quote is provided.

(v) Name of the Government employee soliciting the quotation.

(vi) Date of the conversation.

(4) Compare the informational quotations to the present lessor's price, adjusted to reflect the anticipated price for a succeeding lease.

570.403 Expansion requests.

(a) If the expansion space is in the general scope of the lease, you may acquire the space through a modification without further justification under FAR 6.3.

(b) If the expansion space needed is outside the general scope of the lease, determine whether it is more prudent to provide the expansion space by supplemental agreement to the existing lease or to satisfy the requirement by competitive means.

(1) Conduct a market survey to determine the availability of suitable alternative locations.

(2) If you identify alternate locations that can satisfy the total requirement, perform a cost-benefit analysis to determine whether it is in the Government's best interest to relocate. Consider, as appropriate.

(i) The cost of the alternate space compared to the cost of expanding at the existing location.

(ii) The cost of moving.

(iii) The cost of duplicating existing improvements.

(iv) The cost of the unexpired portion of the firm lease term. If a termination is possible, use the actual cost of such an action.

(v) the cost of disruption to the agency's operation.

(c) If you determine not to use competitive procedures and the expansion space is outside the general scope of the lease:

(1) If the estimated value of the acquisition does not exceed the simplified lease acquisition threshold, document the file as required by 570.203–2(b).

(2) If the estimated value of the acquisition exceeds the simplified lease acquisition threshold, prepare a justification for approval under FAR 6.3 and 506.3.

570.404 Superseding leases.

(a) Consider executing a superseding lease to replace an existing lease when the Government need numerous or detailed modifications to the space that would cause complications or substantially change the present lease.

(b) If the value of the superseding lease exceeds the simplified lease acquisition threshold, the justification and approval requirements in FAR 6.3 and 506.3 apply. If the cost does not exceed the simplified lease acquisition threshold, you may use the simplified procedures in 570.2 and explain the absence of competition in the file.

570.405 Lease extensions.

(a) This section applies to extension of the term of a lease to provide for continued occupancy on a short-term basis.

(b) If the value of a lease extension will exceed the simplified lease acquisition threshold, the justification and approval requirements in FAR 6.3 and 506.3 apply. For extensions that will not exceed the simplified lease acquisition threshold, you may use the simplified procedures in 570.2 and explain the absence of competition in the file.

(c) FAR 6.302–1 permits contracting without providing for full and open competition when the property or services needed by the agency are available from only one responsible source and no other type of property or services will satisfy the needs of the agency. This authority may apply to lease extensions in situations such as the following:

(1) The agency occupying the leased space is scheduled to move into other Federally controlled space, but encounters unexpected delays in preparing the new space for occupancy.

(2) The Government encounters unexpected delays outside of its control in acquiring replacement space.

(3) The Government is consolidating various agencies occupying the leased space and you need to extend the terms of some leases to establish a common expiration date.

Subpart 570.5—Special Aspects of Contracting for Lease Alterations

570.501 General.

(a) Acquire alterations through a modification to an existing lease if you meet all the following conditions:

(1) The alterations fall in the general scope of the lease. Consider whether the work can be regarded as fairly and reasonably an inseparable part of the lease requirement originally contracted for.

(2) The lessor is willing to perform the proposed alterations at a fair and reasonable price.

(3) It is in the Government's interest to acquire the alterations from the lessor.

(b) If proposed alterations are outside the general scope of the existing lease, decide whether to acquire the alterations through either:

(1) A supplemental lease agreement, justified and approved under 570.502–1.

(2) Government performance or a separate contract. The lease must first provide the Government the right to perform alterations to the leased space.

570.502 Alterations by the lessor.

These procedures apply to alterations you acquire directly from a lessor by modification or supplement lease agreement.

570.502–1 Justification and approval requirements.

If the proposed alterations are outside the general scope of the lease and you plan to acquire them from the lessor without competition, the following justification and approval requirements apply:

(a) If the alteration project will exceed the simplified lease acquisition threshold, the justification and approval requirements in FAR 6.3 and 506.3 apply.

(b) If the alteration project will exceed $2,500, but not the simplified lease acquisition threshold, you may use simplified acquisition procedures and explain the absence of competition in the file.

(c) If the alternation project will not exceed $2,500, no justification and approval is required.

570.502–2 Procedures.

(a) *Scope of work.* Prepare a scope of work for each alteration project.

(b) *Independent Government estimate.* Obtain an independent Government estimate for each alteration project, including changes to existing alteration agreements with the lessor.

(c) *Request for proposal.*

(1) Provide the scope of work to the lessor, including any plans and specifications, and request a proposal. Indicate in the request for proposal if the Government will make progress payments and provide for retainage, when appropriate.

(2) Request sufficient cost or price information to permit a price analysis.

(d) *Audits.* If you require cost or pricing data and the alteration project will exceed $500,000, request an audit.

(3) *Proposal evaluation.*

(1) Determine if the proposal meets the Government's requirements.

(2) Analyze price or cost. At a minimum, compare the proposed cost to the independent estimate and, if applicable, any audit received.

(3) Analyze profit following FAR 15.404–4.

(4) Document your analysis under this paragraph and the resulting negotiation objectives.

(f) *Price negotiations.*

(1) Exercise sound judgment. You may make reasonable compromises as necessary.

(2) The negotiated price should provide the lessor with the greatest incentive for efficient and economical performance.

(3) Document negotiations in the contract file.

(g) *Award.* Use GSA Form 276, Supplemental Lease Agreement. If the modification does not exceed the simplified acquisition threshold, you may use GSA Form 300, Order for Supplies or Services. Reference the lease on the form.

(h) *Inspection and payment.* Do not make final payment for alterations until the work is:

(1) Inspected by a qualified Government employee or independent Government contractor.

(2) Confirmed as completed in a satisfactory manner.

570.503 Alterations by the Government or through a separate contract.

(a) If the Government chooses to exercise its right to make the alterations rather than contracting directly with the lessor, the Government may either:

(1) Have Federal employees perform the work.

(2) Contract out the work using standard contracting procedures that apply to a construction contract performed on Federal property.

(b) If the Government decides to contract for the work, invite the lessor, as well as all other prospective contractors, to submit an offer for the project.

Subpart 570.6—Solicitation Provisions and Contract Clauses

570.601 FAR provisions and clauses.

Include provisions or clauses substantially the same as the following FAR provisions and clauses.

If . . .	Then include . . .
(a) the estimated value of the acquisition exceeds $2,500.	52.204–3 Taxpayer Identification. 52.219–1 Small Business Program Representations. 52.222–36 Affirmative Action for Workers with Disabilities. 52.232–23 Assignment of Claims. 52.233–1 Disputes.
(b) the estimated value of the acquisition exceeds $10,000.	52.222–21 Prohibition of Segregated Facilities. 52.222–22 Previous Contracts and Compliance Reports. 52.222–25 Affirmative Action Compliance. 52.222–26 Equal Opportunity. 52.222–35 Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era. 52.222–37 Employment Reports on Disabled Veterans and Veterans of the Vietnam Era.
(c) the estimated value of the acquisition exceeds $25,000.	52.209–6 Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment.
(d) the estimated value of the acquisition exceeds $100,000.	52.203–11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions.
(e) the estimated value of the acquisition exceeds the simplified lease acquisition threshold.	52.203–2 Certificate of Independent Price Determination. 52.203–7 Anti-Kickback Procedures. 52.209–5 Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters. 52.215–2 Audit and Records—Negotiation. 52.219–8 Utilization of Small Business Concerns. 52.223–6 Drug-Free Workplace. 52.233–2 Service of Protest.
(f) the estimated value of the acquisition exceeds $500,000.	52.219–9 Small Business Subcontracting Plan. 52.219–16 Liquidated Damages—Subcontracting Plan.
(g) the estimated value of the acquisition exceeds $500,000 and the acquisition includes an evaluation factor that considers the extent of participation of small disadvantaged business concerns in accordance with FAR 19.12.	52.219–24 Small Disadvantaged Business Participation Program—Targets. 52.219–25 Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting.
(h) the estimated value of the acquisition exceeds $10 million.	52.222–24 Preaward On-Site Equal Opportunity Compliance Review.
(i) you require cost or pricing data for work or services exceeding $500,000.	52.215–10 Price Reduction for Defective Cost or Pricing Data. 52.215–12 Subcontractor Cost or Pricing Data.
(j) you authorize submission of facsimile proposals.	52.215–5 Facsimile Proposals.
(k) a negotiated acquisition provides monetary incentives based on actual achievement of small disadvantaged business subcontracting targets under FAR 19.1203 and 519.1203.	52.219–26 Small Disadvantaged Business Participation Program—Incentive Subcontracting.

570.602 GSAR solicitation provisions.

Each SFO must include provisions substantially the same as the following, unless you determine that the provision is not appropriate:

552.270–1 Instructions to Offerors—Acquisition of Leasehold Interests in Real Property. Use Alternate I if you decide that it is advantageous to the Government to allow offers to be submitted up to the exact time specified for award. Use Alternate II if the Government intends to award without discussions. These two alternates are not exclusive.
552.270–2 Historic Preference.
552.270–3 Parties to Execute Lease.

570.603 GSAR contract clauses.

Insert clauses substantially the same as the following in solicitations and contracts for leasehold interests in real property that exceed the simplified lease acquisition threshold, unless you determine that a clause is not appropriate. You do not require a deviation under 570.604 to determine that a clause in this section is not appropriate. Use the clauses at your discretion in actions at or below the simplified lease acquisition threshold.

552.270–4 Definitions. You must use this clause if you use 570.270–28.
552.270–5 Subletting and Assignment.
552.270–6 Maintenance of Building and Premises—Right of Entry.
552.270–7 Fire and Casualty Damage.
552.270–8 Compliance with Applicable Law.
552.270–9 Inspection—right of Entry.
552.270–10 Failure in Performance.
552.270–11 Successors Bound.
552.270–12 Alterations.
552.270–13 Proposals for Adjustment.
552.270–14 Changes.
552.270–15 Liquidated Damages. Insert this clause in solicitations and contracts if you have a critical requirement to meet the delivery date and you cannot establish an actual cost for the loss to the Government resulting from late delivery.
552.270–16 Adjustment for Vacant Premises.
552.270–17 Delivery and Condition.
552.270–18 Default in Delivery—Time Extensions.
552.270–19 Progressive Occupancy.
552.270–20 Payment.
552.270–21 Effect of Acceptance and Occupancy.
552.270–22 Default by Lessor During the Term.
552.270–23 Subordination, Nondisturbance and Attornment
552.270–24 Statement of Lease.
552.270–25 Substitution of Tenant Agency.
552.270–26 No Waiver.
552.270–27 Integrated Agreement.
552.270–28 Mutuality of Obligation.
552.270–29 Acceptance of Space.

570.604 Deviations to provisions and clauses.

(a) You need a deviation approved under 501.4 to omit any required provision or clause.

(b) You also need an approved deviation to modify the language of a provision or clause mandated by statute (e.g., GSAR 552.203–5, Covenant Against Contingent Fees, FAR 52.215–2, Audit and Records—Negotiation). The authorizing statue must allow for a waiver.

(c) Certain clauses required by non-GSA regulations require approval of the issuing agency before you can delete or modify them. For example, 52.222–26, Equal Opportunity; 52.222–35, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era; and 52.222–36, Affirmative Action for Workers with Disabilities, require the approval of the Department of Labor's Office of Federal Contract Compliance Programs before they can be deleted from or modified in the SFO or lease.

Subpart 570.7 Forms

570.701 Standard forms.

Use Standard Form 2, U.S. Government Lease for Real Property, to award leases unless you use GSA Form 3626 (see 570.702). Delete the reference to the Standard Form 2–A in paragraph 7.

570.702 GSA forms.

(a) You may use GSA Form 3626, U.S. Government Lease for Real Property (Short Form), to award leases if you use the simplified leasing procedures in 570.2 or if you determine it advantageous to use.

(b) You may use GSA Form 276, Supplemental Lease Agreement, for actions requiring the agreement of both parties. This includes actions such as amending an existing lease to acquire additional space, obtaining partial release of space, revising the terms of a lease, settling restoration claims, and acquiring alterations.

(c) You may use GSA Form 1364, Proposal To Lease Space, to obtain offers from prospective offerors.

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Friday
July 9, 1999

Part III

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Comprehensive Program Plan for Fiscal Year 1999; Notice

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP(OJJDP)–1204f]

RIN 1121–ZB71

Comprehensive Program Plan for Fiscal Year 1999

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of final program plan for fiscal year 1999.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention is publishing its Final Program Plan for fiscal year (FY) 1999.

FOR FURTHER INFORMATION CONTACT: Eileen M. Garry, Director, Information Dissemination Unit, at 202–307–5911. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is a component of the Office of Justice Programs in the U.S. Department of Justice. Pursuant to the provisions of Section 204(b)(5)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5601 *et seq.* (JJDP Act), the Administrator of OJJDP published for public comment a Proposed Comprehensive Plan describing the program activities that OJJDP proposed to carry out during Fiscal Year (FY) 1999. The Proposed Comprehensive Plan included activities authorized in Parts C and D of Title II of the JJDP Act, codified at 42 U.S.C. 5651–5665a, 5667, 5667a. The public was invited to comment on the Proposed Plan by March 18, 1999. The Administrator analyzed the public comments received, and the comments and OJJDP's responses are provided below. The Administrator took these comments into consideration in developing this Final Comprehensive Plan describing the particular program activities that OJJDP intends to fund during FY 1999, using in whole or in part funds appropriated under Parts C and D of Title II of the JJDP Act.

Notice of the official solicitation of grant or cooperative agreement applications for competitive programs to be funded under the Final Comprehensive Plan will be published at a later date in the **Federal Register**. No proposals, concept papers, or other forms of application should be submitted at this time.

Overview

After a steady climb in the rates of juvenile violent crime arrests, resulting in an increase of 60 percent between 1988 and 1994, the Nation experienced a substantial, 23 percent decline in the 3 years between 1994 and 1997. More notable were the trends in the juvenile arrest rate for murder, which, after doubling between 1987 and 1993, dropped by more than 40 percent between 1993 and 1997. In addition, in the discussion of trends, it is important to note that in any given year less than ½ of 1 percent of this country's juveniles ages 10 to 17 are arrested for violent crime. Even though rates have been dropping, however, they are still more than 20 percent higher than the average rate of the years between 1980 and 1988.

The serious concerns engendered by the increase in violent juvenile crime in the 1980's led many States to enact legislation to address the changing nature of juvenile delinquency and to use a more accountability-based approach in dealing with serious violent juvenile offenders. At the same time, a national dialog began over how best to reform the juvenile justice system to make it more effective in preventing and intervening with juvenile delinquency and victimization and in protecting the public. In order to see this become a reality, the positive achievements of recent years should lead not to complacency, but to a renewed commitment to continue to pursue the research-based, comprehensive approach to problems of delinquency, violence, and victimization that OJJDP inaugurated with the publication in December 1993 of its *Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders.*

It is encouraging that in recent years communities have begun to take on this work and make the commitment needed to make a comprehensive strategy a reality. More and more communities are coming to the understanding that a long-term, consistent commitment will be required to reduce juvenile delinquency, violence, and victimization and to ensure public safety.

This Final Comprehensive Plan describes OJJDP's plans for funding activities authorized under Part C (National Programs) and Part D (Gang-Free Schools and Communities; Community-Based Gang Intervention) of Title II of the Juvenile Justice and Delinquency Prevention (JJDP) Act. The activities authorized under Parts C and D make up part of OJJDP's overall responsibilities under the JJDP Act. These responsibilities are outlined briefly below.

In 1974, the JJDP Act established OJJDP as the Federal agency responsible for providing national leadership, coordination, and resources to develop and implement effective methods to prevent and reduce juvenile delinquency and improve the quality of juvenile justice in the United States. OJJDP administers State Formula Grants under Part B of Title II, State Challenge Grants under Part E of Title II, and Community Prevention Grants under Title V of the JJDP Act to assist States and territories to fund a range of delinquency prevention, control, and juvenile justice system improvement activities. OJJDP provides support activities for these and other programs under statutory set-asides that are used to provide related research, evaluation, statistics, demonstration, and training and technical assistance services. OJJDP also funds Special Emphasis programs authorized under Part C; school and community-based gang prevention, intervention, and suppression programs under Part D; and mentoring programs under Part G of Title II of the JJDP Act; funds numerous research, evaluation, statistics, demonstration, training and technical assistance, and information dissemination activities through its National Institute for Juvenile Justice and Delinquency Prevention; administers the Drug Prevention Program, the Underage Drinking Program, the Safe Schools Initiative, a Native American discretionary grants program, the Safe Start: Children Exposed to Violence Initiative, and the Juvenile Accountability Incentive Block Grants program. OJJDP also coordinates Federal activities related to juvenile justice and delinquency prevention.

OJJDP serves as the staff agency for the Coordinating Council on Juvenile Justice and Delinquency Prevention, coordinates the Concentration of Federal Efforts Program, and administers both the Title IV Missing and Exploited Children's Program and programs under the Victims of Child Abuse Act of 1990, as amended, 42 U.S.C. 13001 *et seq.*

OJJDP focuses its assistance on the development and implementation of programs with the greatest potential for reducing juvenile delinquency and improving the juvenile justice system by establishing partnerships with State and local governments, American Indian and Alaska Native jurisdictions, and public and private agencies and organizations. OJJDP performs its role of national leadership in juvenile justice and delinquency prevention through a cycle of activities. These include

collecting data and statistics to determine the extent and nature of issues affecting juveniles; funding research that can lead to demonstrations funded by discretionary grants; evaluating demonstration projects; sharing lessons learned from the field with practitioners through a range of information dissemination vehicles; providing seed money to States through formula and block grants to implement projects or reform efforts; and providing training and technical assistance to assist States and local governments to implement programs effectively and to maintain the integrity of model programs as they are being replicated.

It is important to note that OJJDP emphasizes coordination with other Office of Justice Program (OJP) components and other Federal agencies whenever possible to concentrate Federal resources to achieve maximum results from its programs and initiatives. This coordination, which is evidenced in many of the program descriptions that follow, includes joint funding, interagency agreements, and partnerships to develop, implement, and evaluate projects. More important, it is critical that the reader become familiar with the program activities of the other OJP Bureaus and Offices as reflected in the Office of Justice Programs Fiscal Year 1999 Program Plan. The work undertaken in OJP in many instances cuts across components and areas of practice; therefore, the work undertaken by OJJDP should be viewed as part of a larger OJP composite.

Considering all the factors discussed above, OJJDP has prepared this Final Comprehensive Plan for FY 1999 for activities authorized under Part C (National Programs) and Part D (Gang-Free Schools and Communities; Community-Based Gang Intervention) of Title II of the JJDP Act, as described in the following pages.

Fiscal Year 1999 Program Planning Activities

The OJJDP program planning process for FY 1999 was coordinated with the Assistant Attorney General, Office of Justice Programs (OJP), and all OJP components. The program planning process involved the following steps:

- Internal review of existing programs by OJJDP staff.
- Internal review of proposed programs by OJP bureaus and Department of Justice components.
- Review of information and data from OJJDP grantees and contractors.
- Review of information contained in State comprehensive plans.
- Review of comments from youth service providers, juvenile justice practitioners, and researchers who provided input in proposed new program areas.
- Consideration of suggestions made by juvenile justice policymakers concerning State and local needs.
- Consideration of all comments received during the period of public comment on the Proposed Comprehensive Plan.

Discretionary Program Activities

Discretionary Grant Continuation Policy

OJJDP has listed on the following pages continuation projects currently funded in whole or in part with Part C and Part D funds and eligible for continuation funding in FY 1999, either within an existing project period or through an extension for an additional project period. A grantee's eligibility for continued funding for an additional budget period within an existing project period depends on the grantee's compliance with funding eligibility requirements and achievement of the prior year's objectives. The amount of award is based on prior projections, demonstrated need, and fund availability.

The only projects described in this Final Program Plan are those that will receive Part C or Part D FY 1999 continuation funding under project period or discretionary continuation assistance awards and new programs that OJJDP intends to fund in FY 1999. Readers should note that they will not find descriptions of other OJJDP programs, including mentoring programs under Part G of Title II of the JJDP Act, the Drug Prevention Program, the Underage Drinking Program, the Safe Schools Initiative, the Native American discretionary grants program, the Safe Start: Children Exposed to Violence Initiative, and the Juvenile Accountability Incentive Block Grants program. When appropriate, separate solicitations are issued for applications for funding for programs that are not authorized under Parts C and D.

Consideration for continuation funding for an additional project period for previously funded discretionary grant programs was based upon several factors, including the following:

- The extent to which the project responds to the applicable requirements of the JJDP Act.
- Responsiveness to OJJDP and Department of Justice FY 1999 program priorities.
- Compliance with performance requirements of prior grant years.
- Compliance with fiscal and regulatory requirements.
- Compliance with any special conditions of the award.
- Availability of funds (based on appropriations and program priority determinations).

In accordance with section 262 (d)(1)(B) of the JJDP Act, as amended, 42 U.S.C. 5665a, the competitive process for the award of Part C funds is not required if the Administrator makes a written determination waiving the competitive process:

1. With respect to programs to be carried out in areas in which the President declares under the Robert T. Stafford Disaster Relief and Emergency Assistance Act codified at 42 U.S.C. 5121 *et seq.* that a major disaster or emergency exists, or
2. With respect to a particular program described in Part C that is uniquely qualified.

Program Goals

The three goals listed below constitute the major elements of a sound policy that ensures public safety and security while establishing effective juvenile justice and delinquency prevention programs. Underlying each of the goals is the overarching premise that their achievement is vital to protecting the long-term safety of the public from juvenile delinquency and violence.

- *Delinquency Prevention and Early Intervention*. OJJDP promotes delinquency prevention and early intervention efforts that reduce the flow of juvenile offenders into the juvenile justice system, the numbers of serious and violent offenders, and the development of chronic delinquent careers. While removing serious and violent juvenile offenders from the street serves to protect the public, long-term solutions lie primarily in taking aggressive steps to stop delinquency before it starts or becomes a pattern of behavior.
- *Improvement of the Juvenile Justice System*. OJJDP seeks to improve the juvenile justice system and the response of the system to juvenile delinquents, status offenders, and dependent, neglected, and abused children.
- *Corrections, Detention, and Community-Based Alternatives*. OJJDP supports efforts to preserve the public safety through the appropriate development and best use of secure detention and corrections options, while at the same time fostering the use of community-based programs for juvenile offenders.

In pursuing these broad goals, OJJDP divides its programs into four categories: public safety and law enforcement; strengthening the juvenile

justice system; delinquency prevention and intervention; and child abuse and neglect and dependency courts. A fifth category, overarching programs, contains programs that have significant elements common to more than one of the other four categories. Following the summary of public comments and the introductory section below, the continuation programs that OJJDP will fund in FY 1999 are listed and summarized within these five categories. New programs are described in the introductory section.

Summary of Public Comments on the Proposed Comprehensive Plan for Fiscal Year 1999

OJJDP published its Proposed Comprehensive Plan for FY 1999 in the **Federal Register** (Vol. 64, No. 20) on February 1, 1999, for a 45-day public comment period. OJJDP received 17 letters commenting on the Proposed Plan. (Each letter had one signature.) All comments have been considered in the development of OJJDP's Final Comprehensive Plan for Fiscal Year 1999.

Comment: Eight letters suggested that OJJDP should include career academies in its program plan. Originally established in inner-city Philadelphia in the late 1960's, high school career academies are designed to restructure high schools to support students academically while providing them with marketable skills, work-based learning experiences, and clearer pathways to postsecondary education and productive employment. Support for including career academies in the program plan came from the president of the National Career Academy Coalition, two high school principals, the executive director of the American Society for Public Administration (ASPA) and a person associated with the ASPA Philadelphia Regional Chapter, two career academy coordinators, and the professional standards officer for the Law Enforcement Training Board of the Indiana Law Enforcement Academy.

Response: OJJDP is a strong supporter of the career academy concept and is working with LAWNET, the National Career Academy Coalition's collaborative initiative to link law-related career academies with police departments and communities across the country. The U.S. Department of the Treasury and the U.S. Department of Justice have provided funding and personnel support to two academies (Academy for Law, Justice, and Security and the Public Service Academy) in Anacostia Senior High School in Washington, D.C. OJJDP has also long supported the Communities in Schools program, which has facilitated a number of career academies. [Note: At the time this response was sent to the commenters, OJJDP was considering working with LAWNET; however, this effort was not chosen to be part of the final program plan.]

Comment: One writer, a State juvenile justice specialist, made four comments and one request. The comments concerned: (1) Mental health issues and education for system professionals in recognizing signs of mental illness, (2) technical assistance to Title V and the need to increase the capacity of States to conduct the training without entailing a high cost for training materials, (3) the need for an annual report of products developed by the various projects, and (4) the survey of juvenile probation and inclusion of social service and community placements. The fifth item was a request for additional information about funds earmarked for the National Association of State Fire Marshals.

Response: OJJDP's responses are presented in order below.

1. Concerning mental health issues, the joint funding efforts OJJDP is engaged in with the Center for Mental Health Services (CMHS), Substance Abuse and Mental Health Services Administration (SAMSHA), encompasses work with the education system. The U.S. Department of Education's Office of Special Education Programs (OSEP) is also a partner in this effort. The program that CMHS funds is designed to support the development of a system of care for children and youth across the developmental spectrum. Forty-five sites are currently funded to create this system of care. OJJDP's funds support training and technical assistance to assist with the greater inclusion of the juvenile justice system in the sites' efforts to develop a comprehensive system of care, and the OSEP funds support the same for the education system.

OJJDP funds that were transferred for the system of care on Native American reservations under a program called Circles of Care are being used to fund an additional site. These Native American recipients will be planning for the development and implementation of a system of care for youth on the reservation, including the school system.

OJJDP has also transferred funds to the National Institute of Mental Health to support studies of attention deficit hyperactivity disorder and a study of mental health issues among a school population. Both of these studies will be of assistance to schools and communities in future efforts to address the mental health needs of children and youth.

2. The answer to the comment about the technical assistance to Title V is that the contractor will work with OJJDP's Formula Grants Program technical assistance contractor to develop a community planning curriculum for delinquency prevention planning and implementation activities and use it to train groups of trainers in different States. OJJDP intends to expand the pool of in-State trainers and to encourage wide use of training materials, thereby making Title V training and technical assistance accessible to a large number of communities.

3. The suggestion for a single annual report of the products developed by the various projects certainly has some merit, but at this time, OJJDP does not have any plans for such a publication. Although OJJDP does not issue the type of report the writer described, the Office does publish a wealth of information about the latest promising and effective programs, an annual report that gives an overview of OJJDP's major accomplishments, and various program-specific reports such as the annual report to Congress on Title V and last year's report to Congress on OJJDP's Juvenile Mentoring Program. The commenter is on OJJDP's mailing list to receive all these publications.

4. In regard to the Survey of Juvenile Probation, the writer asked if this effort to determine the number of juveniles under some form of community supervision includes social service placements and community placements of youth in the custody of the State correctional system. The answer is yes. OJJDP will endeavor to enumerate those juveniles who are under supervision as part of an official juvenile court sanction. Therefore, all those not currently in a residential placement will be enumerated. However, at this stage in the development of the project, OJJDP reserves the right not to cover particular parts of the system for practical or theoretical reasons. To make the survey consistent across jurisdictions, if OJJDP chooses to exclude or include particular populations in one jurisdiction, those populations will be excluded or included in all jurisdictions.

5. In response to the request for more information about the earmarked funds for the National Association of State Fire Marshals (NASFM), the following information was provided. NASFM was awarded $382,640 to implement the Juvenile Fire-Setter Intervention Project. NASFM will develop a national juvenile fire-setting intervention mobilization plan that will facilitate and promote the

establishment of juvenile fire-setter intervention programs, based on existing valid models at the State and local levels.

NASFM also plans to provide the first comprehensive study that will look at the problem of juvenile fire-setting through an examination of the best of what has been done to date and the best of what might be done in the future. This study will serve as the basis of a strategic plan to better coordinate existing public and private resources needed to reduce the severity and incidence of fires started by children. Through this study, NASFM plans to develop a consensus statement on the nature, dynamics, and scope of children's involvement with fire; present an analytical summary of public and private sector initiatives addressing juvenile fire-setting; recommend how best to use existing public and private resources to reduce the severity and incidence of fires started by children; and establish a clearinghouse to create linkages among fire services, educational, product safety, and child welfare professionals addressing juvenile fire-setting issues.

Experts nationwide will analyze the issues and techniques that have been key to effective intervention programs and recommend national standardized approaches that have acceptance from both professional and peer groups.

Comment: One writer, director of a university training resource center, affirmed the ''importance of addressing the educational issues related to youth in the juvenile justice system'' and indicated support for the OJJDP proposal to ''establish with the Department of Education a Center for Students with Learning Disabilities in the Juvenile Justice System.''

Response: OJJDP appreciates the words of support for a cooperative effort between OJJDP and the U.S. Department of Education to establish a Center for Students with Learning Disabilities in the Juvenile Justice System. The commenter was sent an information copy of the announcement of a new U.S. Department of Education grant for establishing this center. The application deadline was April 23, 1999.

OJJDP agrees that it is important to address educational issues related to youth in the juvenile justice system. Most of OJJDP's funding is not provided under Parts C and D but is distributed to the States and territories through Formula Grants, Challenge, and Title V (Community Prevention) programs and education-related concerns can be addressed through these programs. Two of the Challenge Grant activities, for example, refer to ''appropriate education services, including special education, for youth in the juvenile justice system'' and comprehensive education services as part of aftercare programs.

Comment: A second writer, executive director of the National Juvenile Detention Association, also applauded the proposed collaboration with the Department of Education in developing the Center for Students with Learning Disabilities in the Juvenile Justice System. This commenter also expressed appreciation for OJJDP's ''continued support in funding projects to improve systemic and programmatic issues within the juvenile justice system and more specifically the juvenile detention and corrections field.''

Response: OJJDP appreciates the words of approval for its funding of projects to improve systemic and programmatic juvenile justice issues, specifically in the field of detention and corrections. In response to the comments in support of the Center for Students with Learning Disabilities in the Juvenile Justice System, OJJDP sent the writer an information copy of the announcement of a new U.S. Department of Education grant for establishing this center. The application deadline was April 23, 1999.

Comment: One commenter, the associate legislative director of the National Association of Counties, expressed concern that the plan ''fails to address the county role in the partnership'' between State legislators and State and local leaders. The writer offered to work with OJJDP in building a county policymaker component in the plan.

Response: OJJDP recognizes the important role counties play in the overall effort to effectively deal with juvenile justice issues. During the past year, OJJDP officials have met with the writer and other representatives of the National Association of Counties and the National Organization of Black County Officials to discuss development of a long-term approach to improving the juvenile justice system at all levels'national, State, county, and community. OJJDP plans to continue to work with and encourage representatives of the various levels of government to identify and agree on ways to collaborate to prevent and reduce juvenile crime and victimization throughout the country.

Comment: Another writer, president of a State council on crime and delinquency, also suggested that the program of Technical Assistance for State Legislatures should be more focused on county officials. The writer also commented on two other areas: field-initiated research and the Balanced and Restorative Justice (BARJ) Project. The response concerning the need for more focus on counties was essentially the same as the response provided to the preceding comment. The other two comments are noted and addressed below.

1. Field-Initiated Research. The writer asked that funding for field-initiated research be included in the Final Program Plan. OJJDP has added a field-initiated program of general research to the plan.

2. BARJ. The writer praised this project and recommended increased funding to expand its training and technical component to jurisdictions throughout the United States. Although OJJDP's grant support for the Project is modest, the Office shares the commenter's enthusiasm for the BARJ Project. OJJDP views the BARJ Project as an evolving, not a static, venture to improve juvenile justice systems and expects to see further growth and development of the BARJ Project and further positive outcomes for juvenile justice from it.

Comment: One writer, a juvenile prosecutor in a county attorney's office, objected to money or attention going to anything titled ''balanced and restorative justice,'' which he referred to as an oxymoron. He wrote that a balanced approach is ''balanced between fixing the kid, protecting the community, and restoring the victim'' and that restorative justice ''focuses primarily on restoring the victim.'' The writer praised OJJDP's December 1998 teleconference on Juveniles and the Criminal Justice System.

Response: OJJDP grant support for the BARJ Project is quite modest. The BARJ Project was deliberately organized to merge the concepts and practices of the ''balanced approach'' and ''restorative justice.'' OJJDP determined that the goals of community safety, victim reparation, and offender rehabilitation are best achieved if the offender is directed to engage in restorative activities. These activities are structured to foster the offender's sense of accountability and hands-on competency to pursue constructive rather than destructive life styles. One of the main authors of the balanced approach concept (Dennis Maloney) is a senior associate of the BARJ Project and assists the Project in joining not only the theoretical and programmatic elements of the balanced approach and restorative justice, but of ''community justice'' as well. OJJDP views the BARJ Project as an evolving, not a static, venture to improve juvenile justice systems. Its roots are in effective juvenile restitution

programs, which by definition are ''restorative.'' Besides evidence from other sources, the effectiveness of these programs was determined by a study in the writer's own State of Utah (please see OJJDP Update on Research: Restitution and Juvenile Recidivism by Jeffrey A. Butts and Howard N. Snyder, September 1992). OJJDP incorporated lessons learned from the best restitution programs into the BARJ Project and expects to see further growth and development of the BARJ Project and further positive outcomes for juvenile justice from it.

Comment: The director-designate of a State department of juvenile justice wrote to support OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders and the plan's emphasis on delinquency prevention. Of the areas that OJJDP is considering for new programs, the writer specifically expressed support for five: community justice and balanced and restorative justice, risk and needs assessment instruments, education programs for students in the juvenile justice system, and programs for abused and neglected children within the juvenile justice system.

Response: OJJDP appreciates the writer's support for the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders and for the emphasis on delinquency prevention. It is also helpful to know which of the proposed broad priority areas the writer believes should be given major consideration.

Comment: The president of a private program to combat juvenile delinquency commended the programs OJJDP proposed to fund this fiscal year. In addition, the writer stated that there is need for reform in how adults view and deal with young people.

Response: OJJDP appreciates the writer's support for the Proposed Program Plan. In regard to the issue of ''how adults view and deal with young people,'' OJJDP notes that the programs it supports all involve an element of respect for the young people they serve. As the Proposed Comprehensive Plan points out, the foundation of OJJDP's work is its Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders. The Comprehensive Strategy provides a strategic planning framework for States and communities to increase their ability to effectively combat juvenile delinquency and victimization and provide for public safety. Based on three decades of research on what causes juvenile delinquency and what works to address it, the Comprehensive Strategy emphasizes six key principles. The first two principles touch on the writer's concern about respect for youth:

1. Strengthening families as their children's first and primary teachers and role models.

2. Supporting core social institutions such as schools, religious institutions, and community organizations in their efforts to develop youth who will lead productive and law-abiding lives.

An example of a specific OJJDP program that helps to build mutual respect between youth and adults is the Juvenile Mentoring Program (JUMP), which provides one-on-one mentoring for youth at-risk of delinquency, gang involvement, educational failure, or dropping out of school. The adults who volunteer as mentors give their time and talents to try to make a difference in the lives of these young people. Initial evaluation findings from 93 JUMP sites across the county show that youth in the program reported that mentoring helped them stay away from alcohol and drugs, keep away from gangs, and avoid using guns and knives.

Comment: A writer with a background in paralegal and security work stressed the importance of early prevention, parent involvement, mentoring, and other programs that reduce the risk of involvement in delinquency and described positive results that her community has achieved through collaboration among business, schools, mentoring groups, and government.

Response: OJJDP's proposals for FY 1999 reflect a similar commitment to prevention activities.

Introduction to Fiscal Year 1999 Program Plan

Since 1993, when it published the *Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders*, OJJDP has been advocating that States, local governments, and communities adopt this research-based comprehensive strategy approach to address the problems of juvenile crime and victimization. OJJDP has synthesized decades of research and practice from practitioners and established a framework for implementing an effective juvenile justice system. Through support of research, demonstration programs, and training and technical assistance, OJJDP encourages States, local governments, and communities to use the Comprehensive Strategy to develop coordinated, communitywide approaches to preventing and intervening with juvenile delinquency and victimization. OJJDP focuses its support on programs and initiatives that further one or more of the basic principles of the Comprehensive Strategy:

- Strengthen families in their role of guiding, disciplining, and instilling sound values in their children.
- Support core social institutions and their role in supporting families and helping children develop to their maximum potential.
- Promote prevention strategies and activities that reduce the impact of negative (risk) factors and enhance the influence of positive (protective) factors in the lives of youth at greatest risk of delinquency.
- Intervene immediately and appropriately at the first signs of trouble in a child's life and establish a system of graduated sanctions and a continuum of services to respond appropriately to the needs of each juvenile offender.
- Protect the public from the most serious, violent, and chronic juvenile offenders by providing for their incapacitation while at the same time addressing their treatment needs.

For the fourth consecutive year, OJJDP has developed a Program Plan rooted in its Comprehensive Strategy. The Plan also supports the Coordinating Council's National Juvenile Justice Action Plan released in 1996. This Action Plan, which grew out of the Comprehensive Strategy, provides eight objectives to reduce juvenile violence and describes ways to meet these objectives. OJJDP will continue to support development and refinement of the Comprehensive Strategy and training and technical assistance to help jurisdictions begin to implement it by developing a continuum of care to deal with both juvenile offenders and juveniles at risk of becoming offenders. Development, dissemination, and support of the Comprehensive Strategy and the Action Plan are prime examples of how OJJDP's national leadership is instrumental in moving the field from innovation to infrastructure.

OJJDP-funded programs that emphasize early prevention and family involve a variety of approaches, including strengthening the dependency court, parent training, nurse-based home visitation for at-risk first-time mothers, problem solving, parent support groups led by parents themselves, multisystemic therapy, and training and technical assistance for replicating exemplary programs. Other prevention programs reach out to youth in the schools and the community. They include youth development, conflict resolution, mentoring, career preparation, truancy reduction, drug prevention, violence prevention, and antigang outreach programs.

Efforts involving intervention, accountability, and sanctions include dissemination of the principles of balanced and restorative justice, emphasis on reducing overcrowding and disproportionate minority confinement in secure facilities, gender-specific services targeted to female juvenile offenders, intensive aftercare services, services for chemically involved young people, and a communitywide approach to preventing and suppressing gangs. Funds are also provided for collaborations between police and health services agencies and for appropriate training for legislators, prosecutors, and line staff in secure facilities.

Research and evaluation can assure policymakers, practitioners, and the public that juvenile justice is moving in the right direction and that programs being supported do indeed work. OJJDP will continue supporting a range of research studies, including its landmark study of the causes and correlates of delinquency; studies of very young offenders and of the origins of and pathways to youth violence; a cost-benefit analysis of juvenile justice programs; analyses of a range of juvenile justice data; development of a juvenile sex offender typology; studies of risk reduction for delinquency, substance abuse, and school failure in school children and of delinquency and attention deficit/hyperactivity disorder; and censuses and surveys related to confinement and probation. Continued support will be provided for evaluations of the SafeFutures initiative, Safe Kids/Safe Streets, Partnerships To Reduce Juvenile Gun Violence, Intensive Community-Based Aftercare, teen court training and technical assistance, and several gang-related programs.

New Programs

OJJDP will also support new programs in several areas related to emerging issues facing the juvenile justice system. These programs are described below. The availability of funding for new competitive programs will be announced in the next few months in the **Federal Register** and posted on OJJDP's Web site at www.ojjdp.ncjrs.org under Grants and Funding.

Three new programs fall in the area of information dissemination. The first, the *Children's Court Communications Project*, will help to publicize the centennial of the juvenile court. Jointly designed by the Justice Policy Institute, a project of the Center on Juvenile and Criminal Justice, and the Children and Family Justice Center at Northwestern University School of Law, this project is designed to humanize juvenile court ''graduates,'' highlight their successes, and publicize lessons learned and best practices of the juvenile justice system. OJJDP funds will enable the project to disseminate stories about successful former juvenile court clients through a combined effort involving television, radio, and print public service announcements; a summary publication; and electronic and print media interviews, stories, and talk shows. In funding this effort, OJJDP is engaging in a public-private partnership with the MacArthur Foundation and the Annie E. Casey Foundation. The project will expand public knowledge and dialog about the juvenile court during its centennial and open the door for professionals, advocates, and community-based entities to learn about best practices and successes in the system.

Education on Gun Violence and Safety is the second new program focusing on disseminating information and educating the public. OJJDP will partner with the Bureau of Justice Assistance to support Education on Gun Violence and Safety. This project seeks to educate gunowners and parents about how to safely use and store guns and how to protect children from gun violence. Through a coordinated communications, education, grassroots, and media campaign, the project will reach gunowners and other caring adults with important information on preventing youth's illegal access to and unlawful use of guns. In FY 1999, critical communications research with gunowners will determine their perceptions, attitudes, habits, and inclinations and thereby inform the communications strategy.

OJJDP will participate in a joint Department of Justice/Federal Trade Commission *Study of the Marketing of Media Violence*, which will examine whether the motion picture, television, music, and video game industries market adult-rated material to young people. This study will analyze the degree to which violent entertainment is targeted at the very people who should not be exposed to it. The year-long study will also examine whether entertainment industries require, monitor, or encourage enforcement of the rating systems in stores and movie theaters.

As described in the Proposed Program Plan, OJJDP is planning a joint initiative with the Office of Special Education and Rehabilitative Services, U.S. Department of Education, to establish a *Center for Students With Disabilities in the Juvenile Justice System*. The Secretary of Education and the Attorney General expect this project to have a significant impact on services for students with disabilities in the juvenile justice system. Improvements in these services will be based on a combination of research, training, and technical assistance. To meet the challenges of serving this population of students, positive changes must occur in the following areas: prevention, educational programming, and reintegration/transition. The Center for Students With Disabilities in the Juvenile Justice System will provide guidance and assistance to States, schools, justice programs, families, and communities to design, implement, and evaluate comprehensive educational programs based on research-validated practices for students with disabilities within the juvenile justice system.

A new school-related prevention program is the *School and Classroom Management Demonstration Project.* OJJDP will support this North Carolina pilot initiative designed to improve classroom management and to assist in the creation of safe learning environments. Funds will be awarded to the Center for the Study of School Violence to manage the initial pilot in partnership with the University of North Carolina and the North Carolina State Board of Education. The State of North Carolina has made a commitment to support full implementation of the program. The purpose of the pilot program is to increase the ability of teachers and administrators to model and use sound conflict resolution practices by integrating skills training into preservice curriculums at North Carolina schools of education and by working with the North Carolina State Board of Education to change curriculum requirements to include conflict resolution skills training in the context of effective classroom management.

OJJDP plans to partner with the U.S. Department of Education's Safe and Drug-Free Schools Program to fund *Training and Technical Assistance for Sharing Information*, a program on information sharing across disciplines. Protecting children, preventing delinquency, maintaining safe schools and communities, and ensuring accountability for juvenile offenders all require effective information sharing across the agencies responsible for these outcomes. Educators who see warning signs of delinquency can, by sharing information with justice and other youth-serving agencies, develop effective intervention strategies. At the other end of the spectrum, when the juvenile justice system is about to send an adjudicated offender back into the regular school system, justice officials

need to notify the school so it can provide needed support services to help the student succeed. These are just two examples of circumstances in which it is both appropriate and necessary to share information to ensure public safety.

This new training and technical assistance program would provide guidance to school, court, police, probation and parole, child protective services, and health and social service agencies on opportunities, barriers, and legislation regarding sharing information on juveniles. The training would expand on guidance provided in *Sharing Information: A Guide to the Family Educational Rights and Privacy Act and Participation in Juvenile Justice Programs* (OJJDP Program Report, 1997) to assist professionals interested in developing a range of interagency information sharing agreements. Training sessions would provide instruction on the legal, ethical, and institutional barriers to information sharing between/among parties with ''legitimate interests.'' Technical assistance would facilitate planning and implementing a practical system of information exchange that meets legal, ethical, and institutional requirements locally through collaborative decisionmaking and negotiation among agencies. The program would also support the development of interagency agreements and protocols for sharing information and data that reflect mutually agreeable policies and procedures.

Two programs, in addition to the Circles of Care Program described in the Proposed Program Plan, address mental health issues as they relate to juvenile justice. These programs will further the overall goal of OJJDP's mental health strategy: to increase understanding of the mental health needs of at-risk youth and juvenile offenders, improve the quality of services and treatment they receive, and prevent their future involvement in the juvenile justice system. (Readers should note that, besides the programs funded under Parts C and D of Title II of the JJDP Act, funding for mental health programs related to juvenile justice is also available under the Juvenile Accountability Incentive Block Grants (JAIBG) Program administered by OJJDP. Information about JAIBG funding opportunities is available from the Juvenile Justice Clearinghouse at 800-638–8736 and from OJJDP's Web site at www.ojjdp.ncjrs.org.)

In FY 1999, support for an update of the 1992 report *Responding to the Mental Health Needs of Youth in the Juvenile Justice System* will provide important information as to current trends and prevalence of mental health disorders and approaches and programs for dealing with this population. Systems interactions and legal issues affecting mentally disordered youth in the juvenile justice system are likely to be other topics covered by *Responding to the Mental Health Needs of Youth in the Juvenile Justice System—Part II.* Of particular importance is the need to address the issue of youth of color and their under representation in services. The GAINS Center on Co-occurring Disorders will provide oversight and technical review of individual chapters by knowledgeable researchers and practitioners.

Another mental health project is *Technical Assistance Support for the Comprehensive Children and Families Mental Health Projects.* For the past several years, OJJDP has been participating in the Federal Partnership for Children's Mental Health, which was organized by the Center for Mental Health Services (CMHS) of the Substance Abuse and Mental Health Services Administration. In addition to OJJDP, this task group includes agencies within the U.S. Departments of Education and Health and Human Services. An outgrowth of this task group has been the development of interagency agreements between OJJDP and CMHS for OJJDP to support training and technical assistance for the 45 Comprehensive Children and Families Mental Health sites. The funds transferred to CMHS have supported training and technical assistance for the past 2 years to the sites on strategies for greater inclusion of juvenile-justice-involved youth in the continuum of care being developed under these grants. OJJDP will continue this support in FY 1999 as CMHS rebids its training and technical assistance contract. CMHS's 45 sites, with their developing comprehensive mental health services for children and families, present an excellent opportunity to improve mental health services for all children, including juvenile offenders.

In a project called *Helping Communities To Promote Youth Development,* OJJDP will provide support to the Institute of Medicine/ National Research Council, National Academy of Sciences, to establish a committee that will review and synthesize existing evidence regarding the effectiveness of community-level interventions and service programs designed to promote positive youth development. The committee will also assess the strengths and limitations of measurement and methodologies that have been used to evaluate these interventions and address the policy and programmatic implications of this research. The committee will be composed of an interdisciplinary group of individuals with expertise in a range of fields (child and adolescent development, sociology, psychology, statistics and evaluation, youth service, and other relevant areas). The committee will meet periodically and will convene two workshops and commission background papers to inform the field. In addition to a final report that will synthesize the work of the committee, brief summary fact sheets will be widely disseminated to policymakers, local decisionmakers, program administrators, service providers, researchers, community organizers, and other key stakeholders.

Three new efforts will be undertaken in the research area. The first, *Field-Initiated Program of General Research,* is part of OJJDP's larger Field-Initiated Research and Evaluation Program, which will combine general research with three additional topical areas (at-risk girls, Native Americans, and juvenile justice system interventions). Although most of the research funded by OJJDP derives from congressional mandates or addresses statutory priority areas that are narrowly defined, many innovative and important research ideas deserving support arise outside the Federal Government. The Field-Initiated Program of General Research allows OJJDP to provide flexible funding for creative and rigorous research that supports its mission. The ideal field-initiated project not only will increase the knowledge base regarding juvenile delinquency, but will have practical implications for juvenile justice policies and practices. In past years, OJJDP has supported field-initiated research on such topics as gangs in correctional institutions, mental health issues in the juvenile justice system, and juvenile sex offending. Investigators applying for FY 1999 funding may wish to consider (but are not limited to) projects in the following areas: serious and violent juvenile offenders, risk versus protective factors for juvenile offending, development of risk and needs assessment tools for courts and correctional facilities, impact of juvenile transfers to adult court, causes of early-onset offending, causes of desistance from offending, characteristics and needs of very young offenders, and development of innovative intervention programs for specific subgroups of juvenile offenders.

In another research program, *Pornography on the Internet,* OJJDP will provide funds to the National Academy of Sciences for a 2-year study that will

address the capabilities of today's technologies for controlling electronic transmission of pornographic images, identify what is needed to develop more effective and practical control technology for such material, analyze the inherent limitations of such technology, and identify operational policies or management techniques needed to ensure the effectiveness of technologies for controlling transmission of pornographic images. The results of this study will be used in the context of possible options for action by legislators, law enforcement, regulators, industry groups, online service providers, educators, and parents.

In collaboration with the National Institute of Justice's Crime Mapping Research Center, OJJDP will support the research and development of mapping software that will allow State and local communities to use geographic data to facilitate and strengthen planning and implementation of programmatic activities, assessment of conditions and trends, and development of comprehensive plans. *The Crime and Data Mapping Project* will create a software package that will map geospatial data and be useful for immediate strategic planning needs within a local community. It will also provide a geographic information system (GIS) program platform for bringing together multiple data elements and sources for more thorough strategic planning. The software developed will provide not only the ability to map GIS-coded data that includes crime data, but also a tool for analyzing the multiple data variables. This funding will provide initial support to a technologically appropriate organization for the development of software.

With the endorsement of the Drug-Free Communities Advisory Commission, OJJDP has decided to provide additional resources to support the strengthening of the training and technical assistance component of the *Drug-Free Communities Support Program*. This support will directly supplement the Office of National Drug Control Policy's training and technical assistance budget, which currently funds the Centers for the Application of Prevention Technologies through an interagency agreement with the Center for Substance Abuse Prevention. This funding will provide additional support and customized assistance to the Drug-Free Communities Support Program grantees.

Finally, in FY 1999, OJJDP is considering enhancing its assistance to the field in the area of community-based gang intervention, consistent with the OJJDP Comprehensive Gang Model, and in the area of school-centered antigang efforts. Work currently being conducted under OJJDP's Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression and OJJDP's Rural Gang Initiative has resulted in lessons learned that will be helpful to various types of jurisdictions around the country as they develop comprehensive gang programs. No applications are currently being solicited. Separate solicitations for these programs (both community-based gang intervention and school-centered antigang efforts) may be issued at a later date.

Together, the programs in this Comprehensive Plan constitute a practical, multifaceted, and comprehensive approach to effectively preventing juvenile delinquency and victimization.

Fiscal Year 1999 Programs

The following are brief summaries of each of the new and continuation programs projected to receive Part C and Part D funding in FY 1999. As indicated above, the program categories are public safety and law enforcement; strengthening the juvenile justice system; delinquency prevention and intervention; and child abuse and neglect and dependency courts. However, because many programs have significant elements of more than one of these program categories or generally support all of OJJDP's programs, they are listed in an initial program category, called overarching programs. With regard to implementation sites and other descriptive data and information, program priorities within each category will be determined based on grantee performance, application quality, fund availability, and other factors. Programs are listed alphabetically within each category.

A number of OJJDP programs have been identified for funding consideration by Congress with regard to the grantee(s), the amount of funds, or both. These programs, which are listed below, are not included in the program descriptions that follow.

National Council of Juvenile and Family Court Judges
Teens, Crime, and the Community
Parents Anonymous, Inc.
Juvenile Offender Transition Program
Suffolk University Center for Juvenile Justice
Center for Crimes and Violence Against Children
Metro Denver Gang Coalition
L.A. Best Youth
Intensive Services for Juveniles and Families
Delancy Street
Juvenile Justice Program in Alaska
National Association of State Fire Marshals
Syracuse-Onondaga County Drug and Alcohol Abuse Commission
Law-Related Education
Hamilton Fish National Institute on School and Community Violence

In addition, OJJDP has been directed to examine each of the following, provide assistance if warranted, and report to the Committees on Appropriations of both the House and the Senate on its intention for each proposal:

Low Country Children's Center
Center for Prevention of Juvenile Crime and Delinquency at Prairie View University
Project O.A.S.I.S.
Consortium on Children, Families, and Law
Women of Vision Program for Youthful Female Offenders
Violence Institute of New Jersey
L.A. Bridges Youth Programs
Compton Youth Intervention Center for AfterSchool Programs
Kids With a Promise Program
Operation Quality Time
Achievable Dream Program
Secure School Pilot Program
Youth Advocates Program
Camden Urban Science Enrichment Program
Juvenile Crime Reduction Strategies Pilot Program
School Security Technology Center
New Mexico Cooperative Service Extension 4–H Youth Development Program
Adolescent Residential Treatment Program
Coalition for Drug-Free Lanai
Youth Courts in Alaska
Sioux Falls, South Dakota School District for Youth Programs
South Dakota Unified Judicial System
Nebraska Commission for Law Enforcement for Youth Programs
Chicago Public Schools Substance Abuse Program
Minnehaha, South Dakota, County Sheriff's Office for Youth Programs
Essex Teen Center and other Vermont Coalition for Teen Center's Members
Comprehensive Juvenile Justice Crime Prevention Initiative in Gainesville
Multistate Youth Violence Prevention Network
State of Hawaii to combat teen prostitution
Safe Places for Kids

The FY 1999 Omnibus Appropriations Conference agreement also urges OJJDP to work with the Head Start Bureau and other Federal agencies to coordinate an effort to increase public/private partnerships, such as Free to Grow, aimed at strengthening families and communities in their efforts to reduce the negative effect of substance abuse and use on the development of young children.

Fiscal Year 1999 Program Listing

Overarching

Coalition for Juvenile Justice
Cost-Benefit Analysis of Juvenile Justice Programs
Evaluation of SafeFutures

Insular Area Support
Intergenerational Transmission of Antisocial Behavior Project
Juvenile Justice Clearinghouse
Juvenile Justice Statistics and Systems Development
OJJDP Management Evaluation Contract
OJJDP Technical Assistance Support Contract—Juvenile Justice Resource Center
Program of Research on the Causes and Correlates of Delinquency
SafeFutures: Partnerships To Reduce Youth Violence and Delinquency
Study Group on Very Young Offenders
Technical Assistance for State Legislatures
Telecommunications Assistance
Training and Technical Assistance Coordination for the SafeFutures and Safe Kids/Safe Streets Initiatives

Public Safety and Law Enforcement

The Chicago Project for Violence Prevention
Child Development-Community-Oriented Policing (CD–CP)
Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program
Evaluation of the Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program
Evaluation of the Partnerships To Reduce Juvenile Gun Violence Program
Gang Prevention Through Targeted Outreach (Boys & Girls Clubs)
National Youth Gang Center
Partnerships To Reduce Juvenile Gun Violence
Survey of School-Based Gang Prevention and Intervention Programs
Training and Technical Assistance for the Rural Gang Initiative

Delinquency Prevention and Intervention

Advertising Campaign—Investing in Youth for a Safer Future
Assessing Alcohol, Drug, and Mental Health Disorders
The CETARY Project
Communities in Schools—Federal Interagency Partnership
Community Anti-Drug Abuse Technical Assistance Voucher Project
The Congress of National Black Churches: National Anti-Drug Abuse/Violence Campaign (NADVC)
A Demonstration Afterschool Program
Diffusion of State Risk-and Protective-Factor Focused
Prevention
Hate Crime
Home Visitation
Multisite, Multimodal Treatment Study of Children With Attention Deficit/Hyperactivity Disorder
National Center for Conflict Resolution Education
No Hope in Dope Project
Partnerships for Preventing Violence
Proactive Youth Program
Risk Reduction Via Promotion of Youth Development
The SAGE Project and PRIDE Center Afterschool Program
Strengthening Services for Chemically Involved Children, Youth, and Families
Technical Assistance to Title V
Training and Technical Assistance for Family Strengthening Programs

Strengthening the Juvenile Justice System

Balanced and Restorative Justice Project (BARJ)
Blueprints for Violence Prevention: Training and Technical Assistance
Building Blocks for Youth
Census of Juveniles in Residential Placement
Circles of Care Program
Development of the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders
Evaluation of the Intensive Community-Based Aftercare Program
Evaluation of Teen Courts
Gender-Specific Programming for Female Juvenile Offenders
Intensive Community-Based Aftercare Demonstration and Technical Assistance Program
Intensive Treatment Family Programs (ITF)
The Juvenile Justice Prosecution Unit
Juvenile Residential Facility Census
Juvenile Sex Offender Typology
Juvenile Transfers to Criminal Court Studies
Linking Balanced and Restorative Justice and Adolescents (LIBRA)
National Academy of Sciences Study of Juvenile Justice
National Juvenile Justice Program Directory
The National Longitudinal Survey of Youth 97
Performance-Based Standards for Juvenile Correction and Detention Facilities
Quantum Opportunities Program (QOP) Evaluation
Survey of Juvenile Probation
Technical Assistance to Juvenile Corrections and Detention (The James E. Gould Memorial Program)
Technical Assistance to Native Americans
TeenSupreme Career Preparation Initiative
Training and Technical Assistance for National Innovations To Reduce Disproportionate Minority Confinement (The Deborah Ann Wysinger Memorial Program)
Training and Technical Support for State and Local Jurisdictional Teams To Focus on Juvenile Corrections and Detention Overcrowding

Child Abuse and Neglect and Dependency Courts

National Evaluation of the Safe Kids/Safe Streets Program
Safe Kids/Safe Streets: Community Approaches to Reducing Abuse and Neglect and Preventing Delinquency

Overarching

Coalition for Juvenile Justice

This project supports the Coalition in its efforts to meet the statutory mandates through the development of a technical assistance capability that provides training, technical assistance, and information to the State Juvenile Justice Advisory Groups. This will be accomplished through a series of regional training and information workshops and a national conference designed to address the needs of the membership of the Coalition.

This project will be implemented by the current grantee, the Coalition for Juvenile Justice. No additional applications will be solicited in FY 1999.

Cost-Benefit Analysis of Juvenile Justice Programs

The University of Texas and the Dallas County Juvenile Department are working together to perform a substantive cost-benefit analysis of juvenile adjudications in the county to explore the extent to which the method can provide better answers to increasingly urgent questions by decisionmakers. The work, funded under an FY 1997 competitive grant, is examining several important methodological and practical issues, including methods of determining alternative measures for and the extent of beneficial program effects and estimating and allocating unit costs-benefit relationships of different programs. Through the process of addressing these and related matters under the guidance of an advisory board composed of individuals directly engaged in the juvenile justice field at the local and State level, the project will also show how the method can be made immediately useful to decisionmakers.

This program will be implemented by the current grantee, the University of Texas—Dallas. No additional applications will be solicited in FY 1999.

Evaluation of SafeFutures

A national evaluation competitively awarded with FY 1995 funds is being conducted by the Urban Institute to determine the success of the SafeFutures initiative in creating a comprehensive continuum of care for youth in six participating sites (Boston, Massachusetts; Contra Costa County and Imperial County, California; Fort Belknap, Montana; Seattle, Washington; and St. Louis, Missouri). The evaluation addresses the program implementation process and measures performance outcomes and lessons learned about the challenges and accomplishments across the six sites. A cross-site report will document the process of program implementation and community outcomes for use by other funding agencies or communities that want to develop and implement a comprehensive community-based strategy to address serious, violent, and chronic delinquency.

The evaluation will be implemented by the current grantee, the Urban

Institute. No additional applications will be solicited in FY 1999.

Insular Area Support

The purpose of this statutorily required program is to provide support to the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. Funds are available to address the special needs and problems of juvenile delinquency in these insular areas, as specified by Section 261(e) of the JJDP Act of 1974, as amended, 42 U.S.C. 5665(e).

Intergenerational Transmission of Antisocial Behavior Project

The purpose of this project is to expand on the Rochester Youth Development Study by examining the development of antisocial behavior and delinquency in the children of the original Rochester, New York, subjects of OJJDP's Program of Research on the Causes and Correlates of Delinquency. By age 21, 40 percent of the original Rochester subjects were parents. This provides a unique opportunity to examine and track the development of delinquent behavior across three generations in a particularly high-risk sample. Results of the study should provide useful findings with policy implications for prevention programs. The program is being funded under an FY 1998 interagency agreement between OJJDP and the National Institute of Mental Health.

The project will be implemented by the current grantee, SUNY Research Foundation. No additional applications will be solicited in FY 1999.

Juvenile Justice Clearinghouse

A component of the National Criminal Justice Reference Service (NCJRS), the Juvenile Justice Clearinghouse (JJC) collects, synthesizes, and disseminates information on all aspects of juvenile justice. OJJDP established the Clearinghouse in 1979 to serve the juvenile justice community, legislators, the media, and the public. JJC offers toll-free telephone access to information; prepares specialized responses to information requests; produces, warehouses, and distributes OJJDP publications; exhibits at national conferences; maintains a comprehensive juvenile justice library and database; and administers several electronic information resources. NCJRS is administered by the National Institute of Justice (NIJ) under a competitively awarded contract to Aspen Systems Corporation.

This program will be implemented by the current contractor, Aspen Systems Corporation. No additional applications will be solicited in FY 1999.

Juvenile Justice Statistics and Systems Development

The Juvenile Justice Statistics and Systems Development (SSD) program was competitively awarded in FY 1990 to the National Center for Juvenile Justice (NCJJ) to improve national, State, and local statistics on juveniles as victims and offenders. The project has focused on three major tasks: (1) Assessing how current information needs are being met with existing data collection efforts and recommending options for improving national level statistics; (2) analyzing data and disseminating information gathered from existing Federal statistical series and national studies; and (3) providing training and technical assistance tools for local agencies in developing or enhancing management information systems.

This project will be implemented by the current grantee, NCJJ. No additional applications will be solicited in FY 1999.

OJJDP Management Evaluation Contract

This contract was competitively awarded in FY 1995 for a period of 3 years to provide OJJDP with an expert resource to perform independent program evaluations and assist in implementing evaluation activities. Evaluations may be conducted on OJJDP-funded programs and on other programs designed to prevent and treat juvenile delinquency. The time and cost of each evaluation depends on program complexity, availability of data, and purpose of the evaluation. Because the purpose of many evaluations is to inform management decisions, the completion of an evaluation and submission of a report may be required in a specific and, often, short time period.

This contract will be implemented by the current contractor, Caliber Associates. However, a new competitive contract solicitation will also be issued and a new contract awarded in FY 1999.

OJJDP Technical Assistance Support Contract—Juvenile Justice Resource Center

This contract has been competitively awarded since the mid-1980's when OJJDP identified the need for technical assistance support in carrying out its mission. The Juvenile Justice Resource Center (JJRC) provides technical assistance and support to OJJDP, its grantees, and the Coordinating Council on Juvenile Justice and Delinquency Prevention in the areas of program development, evaluation, training, and research. With assistance from expert consultants, JJRC coordinates the peer review process for OJJDP grant applications and grantee reports, conducts research and prepares reports on current juvenile justice issues, plans meetings and conferences, and provides administrative support to various Federal councils and boards.

This contract will be implemented by the current contractor, Aspen Systems Corporation. No additional applications will be solicited in FY 1999.

Program of Research on the Causes and Correlates of Delinquency

Since 1986, this longitudinal study has addressed a variety of issues related to juvenile violence and delinquency and has produced a massive amount of information on the causes and correlates of delinquent behavior. Three project sites participate: Institute of Behavioral Science, University of Colorado at Boulder; Western Psychiatric Institute and Clinic, University of Pittsburgh; and Hindelang Criminal Justice Research Center, University at Albany, State University of New York. The sites pursue both collaborative research efforts and site-specific research. Results from the study have been used extensively in the field of juvenile justice and contributed significantly to the development of OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders and other program initiatives.

This program will be implemented by the current grantees. No additional applications will be solicited in FY 1999.

SafeFutures: Partnerships To Reduce Youth Violence and Delinquency

Since FY 1995, this 5-year project has awarded grants of up to $1.4 million annually to each of six communities (Boston, Massachusetts; Contra Costa County and Imperial County, California; Fort Belknap, Montana; Seattle, Washington; and St. Louis, Missouri) to assist in implementing comprehensive community programs designed to reduce youth violence, delinquency, and victimization through the creation of a continuum of care in communities. This continuum enables communities to respond to the needs of youth at critical stages of their development through a range of prevention, intervention, treatment, and sanctions programs.

SafeFutures activities will be carried out by the current grantees. No additional applications will be solicited in FY 1999.

Study Group on Very Young Offenders

Modeled after the OJJDP Study Group on Serious and Violent Juvenile Offenders, this program is exploring what is known about the prevalence and frequency of very young (under the age of 13) offending. In FY 1998, OJJDP supplemented a grant to the University of Pittsburgh, the grantee for the Study Group on Serious and Violent Juvenile Offenders. The Study Group on Very Young Offenders is examining whether such offending predicts future delinquent or criminal careers, how these youth are handled by various systems including juvenile justice, mental health, and social services; and what methods are best for preventing very young offending and persistence of offending. This project will disseminate the results of its research to the public, policymakers, and practitioners. The Study Group is also assisting OJJDP in formulating a 5-year research agenda for OJJDP and the juvenile justice field.

This program will be implemented by the current grantee, the Western Psychiatric Institute and Clinic at the University of Pittsburgh. No additional applications will be solicited in FY 1999.

Technical Assistance for State Legislatures

Since FY 1995, OJJDP has awarded annual grants to the National Conference of State Legislatures (NCSL) to provide relevant, timely information on comprehensive approaches in juvenile justice to aid State legislators in improving State juvenile justice systems. Nearly every State has enacted, or is considering, statutory changes affecting the juvenile justice system. This project has helped policymakers understand the ramifications and nuances of juvenile justice reform. The grant has improved capacity for the delivery of information services to legislatures. The project also supports increased communication between State legislators and State and local leaders who influence decisionmaking regarding juvenile justice issues.

The project will be implemented by the current grantee, NCSL. No additional applications will be solicited in FY 1999.

Telecommunications Assistance

OJJDP uses information technology and distance training to facilitate access to information and training for juvenile justice professionals. This cost-effective medium enhances OJJDP's ability to share with the field salient elements of the most effective or promising approaches to various juvenile justice issues. In FY 1995, OJJDP awarded a competitive grant to Eastern Kentucky University (EKU) to produce live satellite teleconferences. In FY 1998, OJJDP continued the cooperative agreement with EKU to provide program support and technical assistance for a variety of information technologies. The grantee also explored linkages with key constituent groups to advance mutual information goals and objectives. During the past year, EKU has experimented with cybercasting ''live'' satellite videoconferences on the Internet.

This project will be implemented by the current grantee, EKU. No additional applications will be solicited in FY 1999.

Training and Technical Assistance Coordination for the SafeFutures and Safe Kids/Safe Streets Initiatives

OJJDP will provide funding for long-term training and technical assistance to the SafeFutures and Safe Kids/Safe Streets initiatives. This coordination effort builds local capacity for implementing and sustaining effective continuum of care and systems change approaches in six SafeFutures and five Safe Kids/Safe Streets sites. Project activities include assessment, identification, and coordination of the implementation of training and technical assistance needs at each of the sites and administration of cross-site training.

This program will be implemented by the current grantee, Patricia Donahue. No additional applications will be solicited in FY 1999.

Public Safety and Law Enforcement

The Chicago Project for Violence Prevention

The Chicago Project for Violence Prevention is a citywide, long-term effort to reduce violence. Objectives include reductions in homicide, physical injury, disability and emotional harm from assault, domestic abuse, sexual abuse and rape, and child abuse and neglect. A partnership among the Chicago Department of Public Health, the Illinois Council for the Prevention of Violence, the University of Illinois, and Chicago communities, the project began in 1995 with joint funding from OJJDP and the Centers for Disease Control and Prevention, the National Center for Injury Prevention and Control, the Bureau of Justice Assistance, and the U.S. Department of Housing and Urban Development. The project provides technical assistance to a variety of community-based and citywide organizations involved in violence prevention planning.

The Chicago Project for Violence Prevention will be implemented by the current grantee, the University of Illinois, School of Public Health. No additional applications will be solicited in FY 1999.

Child Development-Community-Oriented Policing (CD–CP)

The Child Development-Community-Oriented Policing (CD–CP) program is an innovative partnership between the New Haven Department of Police Services and the Child Study Center at the Yale University School of Medicine that addresses the psychological burdens on children, families, and the broader community of children witnessing increasing levels of community violence. In FY 1993, OJJDP provided support to document Yale—New Haven's child-centered, community-oriented policing model. The model consists of interrelated training of police officers, consultation, and teaming mental health clinicians with law enforcement in intervening onsite with children and families who witness violence. OJJDP, with first-year support from the Bureau of Justice Assistance, funded a 3-year replication of the model in Buffalo, New York; Charlotte, North Carolina; Nashville, Tennessee; and Portland, Oregon. Other OJP components joined OJJDP in funding an expansion of CD–CP in FY 1998. This expansion moved the project into school-based activities and the area of addressing exposure to violence in domestic violence settings and will continue to do so in FY 1999.

This project will be continued by the current grantee, the Yale University School of Medicine, in collaboration with the New Haven Department of Police Services. No additional applications will be solicited in FY 1999.

Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program

This program supports implementation of a comprehensive gang program model in five jurisdictions (Bloomington, Illinois; Mesa, Arizona; Riverside, California; San Antonio, Texas; and Tucson, Arizona). OJJDP will continue funding for the program, which was competitively awarded with FY 1994 funds. The demonstration sites are implementing a model developed by the University of Chicago with OJJDP funding support. Implementation requires the mobilization of the community to address gang-related violence by making available and coordinating social interventions, providing social/academic/vocational

and other opportunities, and supporting gang suppression through law enforcement, probation, and other community control mechanisms. Each site has established a multidisciplinary team to coordinate the services that project youth receive. Included in the service mix is accountability or social control. Demonstration sites also receive training and technical assistance.

This project will be implemented by the current demonstration sites. No additional applications will be solicited in FY 1999.

Evaluation of the Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program

OJJDP will continue funding this evaluation. Under a 4-year competitive cooperative agreement awarded in FY 1995, the evaluation grantee assisted the five program sites (Bloomington, Illinois; Mesa, Arizona; Riverside, California; San Antonio, Texas; and Tucson, Arizona) in establishing realistic and measurable objectives, documenting program implementation, and measuring the impact of this comprehensive approach. It has also provided interim feedback to the program implementors and trained the local site interviewers. The grantee will continue to gather and analyze data required to evaluate the program; monitor and oversee the quality control of data; provide assistance for completion of interviews; and provide ongoing feedback to project sites.

This project will be implemented by the current grantee, the University of Chicago, School of Social Service Administration. No additional applications will be solicited in FY 1999.

Evaluation of the Partnerships To Reduce Juvenile Gun Violence Program

This 3-year project began with a competitive award in FY 1997 to document and evaluate the process of community mobilization, planning, and collaboration needed to develop a comprehensive, collaborative approach to reducing gun violence involving juveniles. The Partnerships to Reduce Juvenile Gun Violence Program is being implemented in four sites: Baton Rouge and Shreveport, Louisiana; Oakland, California: and Syracuse, New York. In addition to working with these sites, the grantee will also identify additional promising or effective programs underway in communities across the country and evaluate a select number of these programs. An expanded base of youth gun violence programs offers greater opportunity to identify sites that are employing similar strategies with different populations.

This evaluation will be implemented by the current grantee, COSMOS Corporation. No additional applications will be solicited in FY 1999.

Gang Prevention Through Targeted Outreach (Boys and Girls Clubs)

The purpose of this program is to enable local Boys & Girls Clubs to prevent youth from entering gangs, intervene with gang members in the early stages of gang involvement, and divert youth from gang activities into more constructive programs. This program reflects the ongoing pattern of cooperation between OJJDP and the Boys & Girls Clubs to reduce problems of juvenile delinquency and violence. The Boys & Girls Clubs of America provides training and technical assistance to local gang prevention and intervention sites, including some at SafeFutures and OJJDP Comprehensive Gang sites. The project includes funds for local clubs to implement the Targeted Outreach program. A national evaluation of this program is being implemented by Public/Private Ventures.

This program will be implemented by the current grantee, the Boys & Girls Clubs of America. No additional applications will be solicited in FY 1999.

National Youth Gang Center

The proliferation of gang problems over the past two decades led OJJDP to develop a comprehensive, coordinated response to America's gang problem. This response involved five program components, one of which was implementation and operation of the National Youth Gang Center (NYGC), competitively funded with FY 1994 funds, to expand and maintain the body of critical knowledge about youth gangs and effective responses to them. NYGC provides support services to the National Youth Gang Consortium, composed of Federal agencies with responsibilities in this area. NYGC is also providing technical assistance for the Rural Gang Initiative planning and assessment phase. OJJDP will extend the NYGC project an additional year and provide FY 1999 funds to NYGC to conduct more indepth analyses of the National Youth Gang Survey results that track changes in gang membership and gang-related crime, produce timely information on the nature and scope of the youth gang problem, and continue its efforts to foster integration of gang-related items into other relevant surveys and national data collection efforts.

This program will be implemented by the current grantee, the Institute for Intergovernmental Research. No additional applications will be solicited in FY 1999.

Partnerships To Reduce Juvenile Gun Violence

OJJDP will award continuation grants to each of three competitively selected communities that initially received funds in FY 1997 to increase the effectiveness of existing youth gun violence reduction strategies by enhancing and coordinating prevention, intervention, and suppression strategies and strengthening linkages between community residents, law enforcement, and the juvenile justice system. Baton Rouge, Louisiana; Oakland, California: and Syracuse, New York, were selected to receive 3-year awards. The goals of this initiative are to reduce juveniles' illegal access to guns and address the reasons they carry and use guns in violent exchanges. A national evaluation currently underway will document the process of community mobilization, planning, and collaboration needed to develop a comprehensive, collaborative approach to reducing juvenile gun violence.

The Partnerships To Reduce Juvenile Gun Violence program will be carried out by the three current grantees. No additional applications will be solicited in FY 1999.

Survey of School-Based Gang Prevention and Intervention Programs

Under a competitively awarded FY 1997 grant, this project is classifying and describing approaches used by schools to prevent or reduce gang involvement among students in a large sample of urban, suburban, and rural schools. In addition, a search and review of activities undertaken by States to identify and evaluate school-based gang prevention and intervention programs will be completed. Based on a review of programs identified in a national survey currently under way, a small number of promising programs will be examined more closely and described. Technical reports will describe the full range of gang prevention and intervention currently being implemented in the United States, and they will compare program types and quality of implementation across different school levels and locations. A report will highlight promising programs and practices and include guidelines on program development.

This project will be implemented by the current grantee, Gottfredson Associates, Inc. No additional

applications will be solicited in FY 1999.

Training and Technical Assistance for the Rural Gang Initiative

In FY 1998, OJJDP provided supplemental funding support to the National Youth Gang Center to provide training and technical assistance to demonstration sites under OJJDP's Rural Gang Initiative. In FY 1999, training and technical assistance will continue to be provided to those sites chosen to implement the OJJDP Comprehensive Gang model. Training and technical assistance will focus on adapting the OJJDP model to rural jurisdictions and on implementing the model in a theoretically sound manner. Assistance will be delivered through onsite visits, conferences, meetings, and other means such as telephone and electronic media.

This initiative will be implemented by the current grantee, the National Youth Gang Center. No additional applications will be solicited in FY 1999.

Delinquency Prevention and Intervention

Advertising Campaign—Investing in Youth for a Safer Future

OJJDP will continue its support, which began in FY 1997, of the National Crime Prevention Council's (NCPC's) ad campaign, ''Investing in Youth for A Safer Future,'' through the transfer of funds to the Bureau of Justice Assistance (BJA) under an Intra-agency Agreement. OJJDP and BJA are working with the NCPC Media Unit to produce, disseminate, and support effective public service advertising and related media to inform the public of effective solutions to juvenile crime and to motivate young people and adults to get involved and support these solutions. The featured solutions include effective prevention programs and intervention strategies.

The program will be administered by BJA through its existing grant to NCPC. No additional applications will be solicited in FY 1999.

Assessing Alcohol, Drug, and Mental Health Disorders

This project supplements an ongoing National Institute of Mental Health study assessing alcohol, drug, and mental health disorders among juveniles in detention in Cook County, Illinois. The project has three primary goals: (1) To determine how alcohol, drug, and mental disorders develop over time among juvenile detainees; (2) to investigate whether juvenile detainees receive needed psychiatric services after their cases reach disposition (and they are back in the community or serving sentences); and (3) to study the development of dangerous and risky behaviors. The study will investigate how violence, drug use, and HIV/AIDS risk behaviors develop over time, what the antecedents of these behaviors are, and how these behaviors are interrelated. This project is unique because the sample is so large: it includes 1,833 youth from Chicago who were arrested and interviewed between 1996 and 1998. The sample is stratified by gender, race (African American, non-Hispanic white, Hispanic), age (10–13, 14–17), and severity of charge. The investigators will reinterview subjects whether they are back in the community or incarcerated. Because the sample is so large, there will be sufficient statistical power to study rarer disorders (especially comorbidity), patterns of drug use, and risky, life-threatening behaviors. OJJDP funding for this project began in FY 1998.

The project will be implemented by the current grantee, Northwestern University. No additional applications will be solicited in FY 1999.

The CETARY Project

The goals of this project are to provide 20 second-time juvenile offenders, up to age 18, an opportunity to enroll in an intense and structured culinary arts training program; develop and maintain linkage and employment opportunities for the youth; and place a minimum of 18 youth in an accredited continuing education program and/or in the workplace with full-time employment. Funded in FY 1998, the project also provides a counseling specialist who helps the youth establish job readiness and who coordinates placement between career development and employment. General educational development (GED) classes are also offered. Continuous progress evaluations and needs assessments are implemented and enforced for each youth.

This project will be implemented by the current grantee, Johnson & Wales University. No additional applications will be solicited in FY 1999.

Communities In Schools—Federal Interagency Partnership

This program will continue an ongoing national school dropout prevention model developed and implemented by Communities In Schools, Inc. (CIS). CIS, Inc., provides training and technical assistance in adapting and implementing the CIS model in States and local communities. The model brings social, employment, mental health, drug prevention, entrepreneurship, and other resources to high-risk youth and their families in the school setting. Where they exist, CIS State organizations assume primary responsibility for local program replication during the Federal Interagency Partnership. The Partnership is based on enhancing (1) CIS, Inc., training and technical assistance capabilities; (2) its capability to introduce selected initiatives to youth at the local level; (3) its information dissemination capability; and (4) its capability to network with Federal agencies on behalf of State and local CIS programs.

The program will be implemented by the current grantee, Communities In Schools, Inc. No additional applications will be solicited in FY 1999.

Community Anti-Drug Abuse Technical Assistance Voucher Project

Through the Community Anti-Drug Abuse Technical Assistance Voucher Project, the National Center for Neighborhood Enterprise (NCNE) has been awarding vouchers for several years to grassroots organizations to purchase technical assistance and training to effectively address the problem of juvenile drug abuse. NCNE has established a clearinghouse featuring more than 1,200 promising and proven anti-drug programs. The impact of technical assistance vouchers includes enhanced organizational visibility, larger grant awards for indigenous groups, and expanded and increased services resulting from technical assistance in program development and staff training. In addition to awarding vouchers for technical assistance, NCNE provides technical assistance to applicants regarding the development of their mission, goals, and objectives.

The Community Anti-Drug Abuse Technical Assistance Voucher Project will be implemented by the current grantee, the National Center for Neighborhood Enterprise. No additional applications will be solicited in FY 1999.

The Congress of National Black Churches: National Anti-Drug Abuse/ Violence Campaign (NADVC)

The Congress of National Black Churches (CNBC) addresses the problems of juvenile drug abuse, violence, and hate crime through its national public awareness and mobilization strategy. The strategy coordinates the black religious leadership, in cooperation with the U.S. Department of Justice and other Federal agencies and organizations, to mobilize

community residents to combat juvenile drug abuse and drug-related violence. The CNBC National Anti-Drug Abuse/Violence Campaign (NADVC) is a partner in the Education Development Center's (EDC) Juvenile Hate Crime Initiative. NADVC's training and technical assistance have helped sites leverage funds from public and private sources. The NADVC model for the development of prevention programs is easily tailored to the local community's assessment of its drug, delinquency, violence, and hate crime problems.

The program will be implemented by the current grantee, the Congress of National Black Churches. No additional applications will be solicited in FY 1999.

A Demonstration Afterschool Program

This project, known as Estrella, is using FY 1998 funds to design and evaluate a pilot afterschool program to reduce juvenile delinquency and increase educational retention at Gadsden Independent School District in Dona Ana County, New Mexico. Through a curriculum of hands-on science and reading projects and supervised recreation, Estrella is providing a constructive alternative to afternoons of unsupervised free time. New Mexico Mathematics, Engineering, Science Achievement (NM MESA) will provide the academic component of the program. Middle school students will mentor elementary students in a highly interactive learning environment developed through the use of the nationally recognized MESA curriculums. The New Mexico Police Athletic League (PAL) will provide a sports component to round out the program. The University of New Mexico's Institute for Social Research will evaluate the program using both qualitative and quantitative methods.

This project will be implemented by the current grantee, the University of New Mexico—Regents. No additional applications will be solicited in FY 1999.

Diffusion of State Risk- and Protective-Factor Focused Prevention

Since FY 1997, OJJDP has provided funds to the National Institute on Drug Abuse, through an interagency agreement, to support this 5-year study of the public health approach to prevention, focusing on risk and protective factors for substance abuse at the State and community levels. The study will identify factors that influence the adoption of the public health approach and assess the association between this approach and the levels of risk and protective factors and substance abuse among adolescents. The study will also examine State substance abuse data gathered from 1988 through 2001 and use interviews to describe the process of implementing the epidemiological risk-and protective-factor approach in Colorado, Kansas, Illinois, Maine, Oregon, Utah, and Washington.

This project will be implemented by the current grantee, the Social Development Research Group at the University of Washington School of Social Work. No additional applications will be solicited in FY 1999.

Hate Crime

Under an OJJDP grant competitively awarded in FY 1993, the Education Development Center (EDC) developed *Healing the Hate,* a multipurpose curriculum for hate crime prevention in middle schools and other classroom settings. OJJDP expanded this grant to allow EDC to provide training and technical assistance to youth, educators, juvenile justice and law enforcement professionals, and representatives of local public/private community agencies and organizations and the faith community. In FY 1999, EDC will expand its training and technical assistance to new sites and further disseminate the products through the education and juvenile justice networks. In addition, EDC will provide onsite, short-term technical assistance to practitioners interested in hate crime issues. EDC will also assist State juvenile justice agencies to formulate hate crime prevention components for their juvenile delinquency prevention plans.

The project will be implemented by the current grantee, Education Development Center. No additional applications will be solicited in FY 1999.

Home Visitation

This program integrates prenatal and early childhood nurse home visitation into five sites of Operation Weed and Seed (Clearwater, Florida; Fresno, Los Angeles, and Oakland, CA; and Oklahoma City, OK) and one SafeFutures site (St. Louis, MO). Operation Weed and Seed is a national initiative to make communities safe through law enforcement activities and to rebuild the community through social services and economic redevelopment in crime-ridden communities across the country. SafeFutures is an initiative to assist in implementing comprehensive community programs designed to reduce youth violence, delinquency, and victimization through the creation of a continuum of care in communities. The nurse home visitation program addresses three major goals: (1) Preparation of clear, comprehensive home visitation materials to facilitate dissemination and accurate replication of the program; (2) dissemination of the program to the six sites and provision of technical support and training to local staff; and (3) an evaluation of the program with a significant research focus on the dissemination process.

The project will be implemented by the current grantee, the University of Colorado Health Services Center. No additional applications will be solicited in FY 1999.

Multisite, Multimodal Treatment Study of Children With Attention Deficit/Hyperactivity Disorder

OJJDP will transfer funds under an interagency agreement with the National Institute of Mental Health (NIMH) to support this research, funded principally by NIMH. In 1992, NIMH began a study of the long-term efficacy of stimulant medication and intensive behavioral and educational treatment for children with attention deficit/hyperactivity disorder (ADHD). Although ADHD is classified as a childhood disorder, up to 70 percent of afflicted children continue to experience symptoms in adolescence and adulthood. The study will continue through 2000 and will follow the original families and a comparison group. OJJDP's participation, which began in FY 1998, will allow for investigation into the subjects' delinquent behavior and contact with the legal system, including arrests and court referrals.

OJJDP will support this study through an interagency agreement with NIMH. No additional applications will be solicited in FY 1999.

National Center for Conflict Resolution Education

Funded under a competitively awarded cooperative agreement in FY 1995, the National Center for Conflict Resolution Education works to integrate conflict resolution education (CRE) programming into all levels of education in schools, juvenile facilities, and youth-serving organizations. In FY 1998, OJJDP entered into a partnership with the U.S. Department of Education to expand and enhance this project. The grantee provides training and technical assistance through onsite training and consultation for teams from schools, communities, and juvenile facilities; by providing resource materials including the guide to implementing conflict resolution programs; and by partnering with State-level agencies to establish

State training institutes and otherwise build local capacity to implement successful CRE programs for youth. The Center also facilitates peer-to-peer mentoring.

Additionally, the National Center for Conflict Resolution Education has developed the interactive portion of a CD–ROM that is part of an MTV campaign against violence. Through its Juvenile Justice Clearinghouse, OJJDP is making available to MTV viewers 1 million free copies of the CD–ROM/Action Guide package. The CD–ROM presents real-life situations that confront young people and gives them the skills needed to resolve conflicts peacefully. Besides OJJDP, the Bureau of Justice Assistance and the Safe and Drug-Free Schools Program of the U.S. Department of Education are providing funding for this MTV project.

The project will be implemented by the current grantee, Illinois Institute for Dispute Resolution. No additional applications will be solicited in FY 1999.

No Hope in Dope Project

The goal of the No Hope in Dope (NHID) program, funded under an FY 1998 OJJDP grant, is to prevent, reduce, or delay the onset of substance abuse in elementary, intermediate, and high school students in Hawaii's Windward Oaho area. This goal will be accomplished by using a community-based approach that makes antidrug norms clear, salient, and useful as guides for behavior. The program uses opinion-leading student athletes, the No Hope in Dope seminar, and the Officer Honolulu Safety Program. NHID is a program of Project Hope in coordination with the Kahuku and Castle School complexes of the Windward Oahu School District and the Honolulu Police Department. The program will be evaluated with a pre/post intervention design that will allow conclusions about the effectiveness of this community-and school-level intervention.

This project will be implemented by the current grantee, Operation Hope. No additional applications will be solicited in FY 1999.

Partnerships for Preventing Violence

This program will continue for a second year in a multiple funding agreement among OJJDP, the U.S. Department of Education, and the U.S. Department of Health and Human Services to provide support for distance training using satellite videconferencing as the medium. The project, funded under a 3-year grant, consists of a series of six live, interactive satellite training broadcasts that focus on violence prevention programs and strategies that have proven promising or effective. The training is targeted to school and community violence prevention personnel, health care providers, law enforcement officials, and other service providers representing a variety of community-based and youth-serving organizations. To date, two events have been held; the third telecast is scheduled for April 16, 1999.

The project will be implemented by the current grantee, Harvard University School of Public Health. No additional applications will be solicited in FY 1999.

Proactive Youth Program

The New Mexico Police Activities League (PAL) is implementing a statewide prevention project consisting of recreational, educational, and cultural activities for families and youth between the ages of 5 and 18, but focused on at-risk youth and their families. The Albuquerque PAL will provide the initial model for the organization and implementation of the New Mexico PAL project. Local PAL programs will be initiated in at least 12 other New Mexico communities. Schedules for core programs will be coordinated, and a system of regional and statewide activities will be established. The overall goal of the project, which received an FY 1998 OJJDP grant, is to reduce negative behavior and promote healthy behavioral patterns among New Mexico's youth by providing activities that unite youth with law enforcement officers, educators, and other positive adult role models.

This project will be implemented by the current grantee, the University of New Mexico—Regents. No additional applications will be solicited in FY 1999.

Risk Reduction Via Promotion of Youth Development

This program, also known as Early Alliance, is a large-scale prevention study involving hundreds of African-American and Caucasian children in several elementary schools in lower socioeconomic neighborhoods of Columbia, SC. This project is designed to promote coping-competence and reduce risk for conduct problems, aggression, substance use, delinquency and violence, and school failure beginning in early elementary school. Children are being followed longitudinally throughout the 5 years of the project. The program is funded through an interagency agreement with the National Institute of Mental Health (NIMH). NIMH's grantee is the University of South Carolina. Funding has also been provided by the Centers for Disease Control and Prevention and the National Institute on Drug Abuse.

Funded initially in FY 1997 through a fund transfer to NIMH under an interagency agreement, support will be continued for an additional 3 years. No additional applications will be solicited in FY 1999.

The SAGE Project and PRIDE Center Afterschool Program

The SAGE project is continuing development of a project to prevent and reduce juvenile delinquency and school violence. The long-term goal of the PRIDE Center is to provide a comprehensive, year-round juvenile delinquency prevention and intervention program that supports the youth objectives of the SAGE Secondary School and the youth and community objectives of the SAGE project as a whole. Under an FY 1998 grant, the project is providing the collaborating organizations with the means to (1) Expand and enhance adult-mentored and supervised, structured educational opportunities to court-involved and high-risk youth; (2) involve additional city agencies and community-based organizations through the PRIDE Center; and (3) continue to evaluate and disseminate findings on the project's success for replication in other urban areas.

This project will be implemented by the current grantee, Springfield College. No additional applications will be solicited in FY 1999.

Strengthening Services for Chemically Involved Children, Youth, and Families

The U.S. Departments of Justice and Health and Human Services (HHS) provide services to children affected by parental substance use or abuse. OJJDP administers this training and technical assistance program, which began in FY 1998, with funds transferred to OJJDP by HHS's Substance Abuse and Mental Health Services Administration, through a cooperative agreement to the Child Welfare League of America (CWLA), a nonprofit organization. CWLA is assisting child welfare personnel to provide appropriate intervention services for children impacted by the abuse of alcohol and other drugs (AOD) and for their caregivers. CWLA is producing a s comprehensive assessment tool and decisionmaking guidelines for child welfare workers and supervisors. CWLA training and technical assistance will help to develop innovative and effective approaches to meeting the needs of children in the

child welfare system whose parents are AOD abusers.

This jointly funded project will be implemented by CWLA. No additional applications will be solicited in FY 1999.

Technical Assistance to Title V

The purpose of this continuation contract is to provide OJJDP with training support for the Title V program. This training, which the grantee has developed and refined over several years, will continue to introduce key community leaders to data-based risk- and resiliency-focused delinquency prevention strategies and provide localities with the knowledge and skills to assess risk factors and resources in their communities. This contract will also increase the capacity of States to conduct data-based risk and resiliency focused training without Federal support.

This project will be implemented by the current grantee, Developmental Research and Programs, Inc. No additional applications will be solicited in FY 1999.

Training and Technical Assistance for Family Strengthening Programs

OJJDP will continue funding a cooperative agreement competitively awarded in FY 1995 to the University of Utah's Department of Health Education (DHE) to provide training and technical assistance to communities interested in establishing or enhancing a continuum of family strengthening efforts. After a literature review, the grantee convened regional training conferences to showcase selected exemplary and promising family strengthening programs; developed a process for sites to receive followup training on specific program models; conducted program-specific workshops; produced and then updated user and training-of-trainers guides; and distributed videos of several family strengthening workshops. The grantee's technical assistance delivery system and the overall impact of the project are being assessed. In FY 1999, this program will expand its surveys and research on effective practices and assist in replication of identified programs.

This program will be implemented by the current grantee, the University of Utah's DHE. No additional applications will be solicited in FY 1999.

Strengthening the Juvenile Justice System

Balanced and Restorative Justice Project (BARJ)

OJJDP has supported development and improvement of juvenile restitution programs since 1977. The purpose of the BARJ project is to enhance the development of restitution programs as part of systemwide juvenile justice improvement using balanced approach concepts and restorative justice principles. The BARJ program model was first described in a 1994 OJJDP Program Summary, *Balanced and Restorative Justice,* which became a reference source for BARJ training. The BARJ project has provided intensive training, technical assistance, and guideline materials to three selected sites (Allegheny County, Pennsylvania; Dakota County, Minnesota; and West Palm Beach County, Florida), which have been implementing major systemic change in accordance with the BARJ model. The BARJ Project also offers technical assistance and training to other jurisdictions nationwide.

This project will be implemented by the current grantee, Florida Atlantic University. No additional applications will be solicited in FY 1999.

Blueprints for Violence Prevention: Training and Technical Assistance

OJJDP will continue to fund an FY 1998 cooperative agreement with the Center for the Study and Prevention of Violence (CSPV) at the University of Colorado. Under this grant, CSPV provides intensive training and technical assistance to community organizations and units of local government to replicate 10 ''Blueprint'' model programs. These are programs that CSPV identified as meeting a rigorous scientific standard of proven program effectiveness and replicability for reducing adolescent violence, crime, and substance abuse. CSPV will help communities determine the feasibility of program development and also monitor and assist in the replication of these Blueprint programs for 2 years.

This project will be implemented by the current grantee, CSPV. No additional applications will be solicited in FY 1999.

Building Blocks for Youth

The goals of this initiative are to protect minority youth in the justice system and promote rational and effective juvenile justice policies. These goals are accomplished by the following components: (1) Conducting research on issues such as the impact on minority youth of new State laws and the implications of privatization of juvenile facilities by profit-making corporations; (2) undertaking an analysis of decisionmaking in the justice system and development of model decisionmaking criteria that reduce or eliminate disproportionate impact of the system on minority youth; (3) building a constituency for change at the national, State, and local levels; and (4) developing communication strategies for dissemination of information. A fifth component, direct advocacy for minority youth is funded by other sources, not by OJJDP. Funding by OJJDP began in FY 1998.

This initiative will be implemented by the current grantee, the Youth Law Center. No additional applications will be solicited in FY 1999.

Census of Juveniles in Residential Placement

In FY 1998, the Census of Juveniles in Residential Placement (CJRP) replaced the biennial Census of Public and Private Juvenile Detention, Correctional, and Shelter Facilities, known as the Children in Custody census. CJRP collects detailed information on the population of juveniles who are in juvenile residential placement facilities as a result of contact with the juvenile justice system. New methods developed for CJRP are expected to produce more accurate, timely, and useful data on the juvenile population, with less reporting burden for facility respondents.

This program will be implemented through an existing interagency agreement with the Bureau of the Census. No additional applications will be solicited in FY 1999.

Circles of Care Program

In FY 1998, OJJDP and the Center for Mental Health Services (CMHS) entered into an interagency agreement to have OJJDP provide support to the Circles of Care Program, which CMHS had developed. OJJDP transferred funds to CMHS to support the funding of an additional site. The Circles of Care Program is designed to facilitate the planning and implementation of a continuum of care for Native American youth at risk of mental health, substance abuse, and delinquency problems. CMHS funded nine sites in FY 1998 and will continue these sites in FY 1999, based on availability of funds and project performance. OJJDP will transfer additional funds in FY 1999 to continue support for this program.

The currently funded projects will continue in FY 1999. No new applications will be solicited in FY 1999.

Development of the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders

OJJDP has been providing support for development of its Comprehensive Strategy for several years. This project will complete ongoing strategic

planning efforts in six States and expand to two additional States, Oregon and Wisconsin. In each State, up to six jurisdictions have been identified to receive Comprehensive Strategy planning training and technical assistance. OJJDP internal technical assistance capacity will be developed during this time to further assist States through training and technical assistance, including States planning on developing a Comprehensive Strategy planning framework. Implementation support will be developed and provided to the six States and one pilot site scheduled to complete Comprehensive Strategy plans in 1999. Further development and updates of the *Guide for Implementing the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders* will also occur in FY 1999.

This project will be implemented by the current grantees, the National Council on Crime and Delinquency and Developmental Research and Programs, Inc. No additional applications will be solicited in FY 1999.

Evaluation of the Intensive Community-Based Aftercare Program

In FY 1995, OJJDP competitively awarded a grant to the National Council on Crime and Delinquency (NCCD) to perform a process evaluation and design an outcome evaluation of the Intensive Community-Based Aftercare Demonstration and Technical Assistance program. In FY 1998, the project was supplemented and extended for an additional 2 years to continue the outcome evaluation. The outcome evaluation seeks to determine the extent of the differences between the Intensive Community-Based Aftercare Program (IAP) participants and the ''regular'' parolees, the supervision and services provided to both groups, and the cost-effectiveness of IAP. Data collection is being accomplished using several methods including searches of State police records to measure recidivism and analyzing State agency and juvenile court data to estimate costs.

This project will be implemented by the current grantee, NCCD. No additional applications will be solicited in FY 1999.

Evaluation of Teen Courts

This project, which OJJDP began in FY 1997, is measuring the effect of handling young, relatively nonserious law violators in teen courts rather than in traditional juvenile or family courts. Researchers are collecting data on several dimensions of program outcomes, including postprogram recidivism, changes in teens' perceptions of justice, and their ability to make more mature judgements. Analyses of these dimensions will be used to compare youth handled in at least three separate teen court programs with those processed by the traditional juvenile justice system. In addition, the study will conduct a process evaluation of the teen court programs, exploring legal, administrative, and case processing factors that affect the ability of the programs to achieve their goals.

This evaluation will be implemented by the current grantee, the Urban Institute. No additional applications will be solicited in FY 1999.

Gender-Specific Programming for Female Juvenile Offenders

Using a FY 1995 competitive OJJDP grant, Cook County has built a network of support for juvenile female offenders. The county has developed gender-specific needs, strengths, and risk assessments for juvenile female offenders; provided training in implementing gender-appropriate programming; and designed a pilot program with a community-based continuum of care and a unique case management system. In FY 1998, OJJDP provided continuation funding to the Cook County gender-specific program and began providing funding to the State of Connecticut to develop specialized programs for girls from prevention to detention. Connecticut's objectives and activities also include planning, implementing, and demonstrating a program that will develop a hierarchy of sanctions with specific emphasis on females up to age 18 and incorporating systemic changes. The primary emphasis of the Connecticut program is on the needs of pregnant girls and those who are mothers. Technical assistance is being provided to both Cook County and the State of Connecticut by Greene, Peters, and Associates, OJJDP's gender-specific training and technical assistance grantee.

The project will be implemented, in partnership with the Bureau of Justice Assistance, by the current grantee, the Cook County Bureau of Public Safety and Judicial Coordination, and by the State of Connecticut's Office of Alternative Sanctions. No additional applications will be solicited in FY 1999.

Intensive Community-Based Aftercare Demonstration and Technical Assistance Program

This initiative supports implementation, training and technical assistance, and an independent evaluation of an intensive community-based aftercare model in three competitively selected demonstration sites. The overall goal of the intensive aftercare model is to identify and assist high-risk juvenile offenders to make a gradual transition from secure confinement back into the community. The Intensive Aftercare Program (IAP) model has three distinct, yet overlapping segments: (1) Prerelease and preparatory planning activities during incarceration; (2) structured transitioning involving the participation of institutional and aftercare staffs both prior to and following community reentry; and (3) long-term reintegrative activities to ensure adequate service delivery and the required level of social control. The grantee provides continuing training and technical assistance to administrators, managers, and line staff at the intensive community-based aftercare sites. The grant was competitively awarded in FY 1995.

The IAP project will be implemented by the current grantee, the Johns Hopkins University. No additional applications will be solicited in FY 1999.

Intensive Treatment Family Programs (ITF)

The purpose of KidsPeace is to provide individualized foster care (IFC) to seriously disturbed children and adolescents in a therapeutic family setting. KidsPeace will expand its program to additional sites, with the assistance of OJJDP's funding, first provided in FY 1997. KidsPeace has established four sites (Union, New Jersey; Orchard Park and Albany, New York; and Muncie, Indiana). A fifth site is currently under development.

This project will be implemented by the current grantee, KidsPeace National Centers for Kids in Crisis of North America. No additional applications will be solicited in FY 1999.

The Juvenile Justice Prosecution Unit

Under an FY 1996 OJJDP grant, the American Prosecutors Research Institute, the research and technical assistance affiliate of the National District Attorneys Association, established the Juvenile Justice Prosecution Unit (JJPU) to promote prosecutor training. JJPU holds workshops on juvenile-related policy, leadership, and management for chief prosecutors and juvenile unit chiefs and also provides prosecutors with background information on juvenile justice issues, programs, training, and technical assistance. The project solicits planning and other advisory input from prosecutors familiar with juvenile

justice system and prosecutor needs. It draws on the expertise of working groups of elected or appointed prosecutors and juvenile unit chiefs to support project staff in providing technical assistance, juvenile justice-related research, program information, and training to practitioners nationwide.

This project will be implemented by the current grantee, the American Prosecutors Research Institute. No additional applications will be solicited in FY 1999.

Juvenile Residential Facility Census

As part of a long-term relationship with the Bureau of the Census, OJJDP will continue to fund the development and testing of a new census of juvenile residential facilities. This census will focus on those facilities that are authorized to hold juveniles based on contact with the juvenile justice system. From interviews with facility administrators and staff at 20 locations, project staff have produced a detailed report discussing how best to capture information on education, mental health and substance abuse treatment, health services, conditions of custody, staffing, and facility capacity. Project staff have also drafted and tested a questionnaire based on the interview results. The questionnaire will be finalized in 1999. The first full implementation will take place in October 2000.

This project will be conducted through an interagency agreement with the Bureau of the Census, Governments Division and Statistical Research Division. No new applications will be solicited in FY 1999.

Juvenile Sex Offender Typology

In FY 1998, OJJDP competitively funded two feasibility studies in an effort to develop a juvenile sex offender typology. One study is being conducted by the University of Illinois-Springfield, the other by Health Related Research. Efforts to effectively address issues related to juvenile sex offenders' dangerousness, the most appropriate level of placement restrictiveness, the potential for rehabilitation, assessment requirements, and intervention needs have been hampered by the lack of an empirically based system for classifying this heterogeneous population into meaningful subgroups. These initial studies will determine specific methodologies best suited to generate an empirically validated typology of the juvenile sex offender. Based on the results of these initial studies, OJJDP will determine the feasibility of developing a juvenile sex offender typology or the desirability of continuing in the specific directions suggested by Phase I of this work.

An expansion of this work will be implemented by one or both of the current grantees, University of Illinois-Springfield and Health Related Research. No additional applications will be solicited in FY 1999.

Juvenile Transfers to Criminal Court Studies

This study explores the impact of the 1994 changes in Florida law by contrasting transfer policies and practices and sentences received for 1993 with those for 1995. Postsentencing recidivism of the 400 transferred youth in 1993 will be examined. Detailed data on the role of the offender in the commission of the offense; the involvement of gangs, guns, and drugs; and prior offense histories will be used in analyzing sentencing outcomes and postrelease offending. Predictions will be made on rearrest and time to failure in multivariate models with variables reflecting characteristics of offenses, offenders, and offense histories. Cross-group recidivism analyses are planned to compare the recidivism of youth transferred to adult court with that of those retained in the juvenile justice system.

The project will be implemented by the current grantee, the Florida Juvenile Justice Accountability Board. No additional applications will be solicited in FY 1999.

Linking Balanced and Restorative Justice and Adolescents (LIBRA)

The goal of this program is to continue development of a comprehensive, integrated, balanced and restorative system of justice for youthful offenders that holds them accountable to victims, protects the community, builds offender skills and competencies, and offers opportunities for positive connections to community members. OJJDP funding for the program began in FY 1998. To hold youth accountable, the project will establish a network of accountability boards. The project will also pilot Community Justice Centers, which will demonstrate that the community is the core of the justice process and recognizes youth as a vital part of the community.

This program will be implemented by the current grantee, the Vermont Department of Social and Rehabilitation Services. No additional applications will be solicited in FY 1999.

National Academy of Sciences Study of Juvenile Justice

In FY 1997, OJJDP initiated support for a 2-year study by the National Academy of Sciences to draw upon expertise from relevant disciplines in the scientific and practitioner communities to develop a synthesis of the relevant scientific research and expert opinion regarding the prevention, treatment, and control of juvenile crime. Following an examination of empirical and clinical research relevant to the origin of and pathways to youth violence and justice system treatment of juveniles, the review will be supplemented by two workshops and site visits to selected programs. These activities will help to identify (1) the elements of settings, with a particular emphasis on family and school, that inhibit or contribute to the ways in which serious delinquency develops; (2) juvenile and criminal justice system concerns regarding the shifts in youth crime prevention and control policies; and (3) juvenile violence and policing practices in public and federally assisted housing. The study will identify key elements of current efforts and policies that appear to either contribute to or inhibit the development of effective interventions and control mechanisms for youth violence and delinquency. The project is also being supported by the U.S. Department of Education.

This program will be implemented by the current grantee, the National Academy of Sciences. No additional applications will be solicited in FY 1999.

National Juvenile Justice Program Directory

In FY 1995, OJJDP initiated development of this program directory. To conduct its statistical functions, OJJDP must maintain a current and accurate list of all entities surveyed either in the various censuses or in surveys. This list currently entails a complete list of juvenile residential facilities and a list of juvenile probation offices. As OJJDP expands its statistical work, it will need to expand this listing as well. The list needs to contain contact information for the various facilities or agencies and appropriate information for sampling.

This project will be conducted through an interagency agreement with the Bureau of the Census, Governments Division. No additional applications will be solicited in FY 1999.

The National Longitudinal Survey of Youth 97

OJJDP will continue supporting the second round of data collection under the National Longitudinal Survey of Youth 97 (NLSY97) through an interagency agreement with the Bureau of Labor Statistics (BLS). OJJDP funding began in FY 1997. NLSY97 is studying school-to-work transition in a nationally representative sample of 8,700 youth ages 12 to 16 years old. BLS is also collecting data on the involvement of these youth in antisocial and other behavior that may affect their transition to productive work careers. This survey provides information about risk and protective factors related to the initiation, persistence, and desistance of delinquent and criminal behavior and provides an opportunity to determine the generalizability of findings from OJJDP's Program of Research on the Causes and Correlates of Delinquency and other longitudinal studies across a nationally representative population of youth.

The program will be implemented by the BLS under an interagency agreement. No additional applications will be solicited in FY 1999.

Performance-Based Standards for Juvenile Correction and Detention Facilities

This program, which began with a competitive OJJDP cooperative agreement awarded in FY 1995, is in its third phase. Goals for this phase are to (1) introduce concepts, tools, and principles of performance-based standards and accountability in 25 to 30 facilities nationwide; (2) complete the collection of baseline measures of performance on 22 standards covering six critical areas of facility operations in all participating facilities using uniform data collection instruments and protocols; (3) assist the management team in developing appropriate strategies to respond to problem areas based on the performance data; (4) facilitate access to OJJDP/OJP resources for training and technical assistance and related support services needed to carry out the facility improvement plan; (5) monitor results of interventions through reassessment and analysis of progress; and (6) refine the measurement processes and build database performance benchmarks.

This program will be implemented by the current grantee, Council of Juvenile Correctional Administrators. No additional applications will be solicited in FY 1999.

Quantum Opportunities Program (QOP) Evaluation

OJJDP will continue funding an impact evaluation of the Quantum Opportunities Program (QOP) through an interagency fund transfer to the U.S. Department of Labor (DOL). OJJDP began funding this evaluation in FY 1997. QOP, designed by the Ford Foundation and Opportunities Industrialization Centers of America, is a career enrichment program using a model providing basic education, personal and cultural development, community service, and mentoring. The evaluation will determine whether QOP reduces the likelihood that inner-city youth at educational risk will enter the criminal or juvenile justice system. Outcomes to be examined include academic achievement in high school; misbehavior in school; self-esteem and sense of control over one's life; educational and career goals; and personal decisions such as teenage parenthood, substance abuse, and criminal activity. Data on criminal activity are being collected from individual student interviews.

This program will be implemented through an interagency agreement with the U.S. Department of Labor. No additional applications will be solicited in FY 1999.

Survey of Juvenile Probation

OJJDP will continue to support development of a survey of juvenile probation offices in an effort to determine the number of juveniles under some form of community supervision. The exact nature and extent of this survey depends greatly on the results of various development efforts OJJDP is pursuing currently. This project will fund the Bureau of the Census to establish standard procedures for the implementation of this survey. Funding for this project began in FY 1996.

This project will be conducted through an interagency agreement with the Bureau of the Census, Governments Division. No new applications will be solicited in FY 1999.

Technical Assistance to Juvenile Corrections and Detention (The James E. Gould Memorial Program)

The primary purpose of this program is to provide specialized technical assistance to juvenile corrections, detention, and community residential service providers. The grantee also plans and convenes an annual Juvenile Corrections and Detention Forum, which provides an opportunity for juvenile corrections and detention leaders to meet and discuss issues, problems, and solutions to emerging corrections and detention problems. The grantee also provides workshops and conferences on current and emerging national issues in the field of juvenile corrections and detention, conducts surveys, and offers technical assistance through document dissemination. OJJDP will continue this program, which began in FY 1995 under competitive grant for a 3-year period.

The project will be implemented by the current grantee, the American Correctional Association. No additional applications will be solicited in FY 1999.

Technical Assistance to Native Americans

The goal of this program is to build the capacity of the Gila River Indian community, the Pueblo of Jemez, the Navajo Nation, the Red Band of Chippewa Indians, other Native American and Alaskan Native communities, and urban jurisdictions where tribal people reside to address Indian youth crime, delinquency, violence and victimization. Project funds support the development of comprehensive, systemwide responses to these problems in tribal communities. In FY 1999, OJJDP will continue to provide technical assistance to Native Americans to enable tribes to further develop alternatives to detention, specifically targeting juveniles who are first or nonviolent offenders; design guidebooks for the tribal peacemaking process to be used in addressing juvenile delinquency issues that are reported to Family District Court systems; design and implement juvenile justice needs assessments to assist tribes in responding to juvenile detention and alternatives to detention needs; develop protocols to implement State Children's Code provisions that affect Native American Children; and establish sustainable, comprehensive community-based planning processes that focus on the needs of tribal youth. In FY 1997, American Indian Development Associates (AIDA) was selected to implement OJJDP's national technical assistance program for tribes and urban tribal programs across the country for a 3-year period.

This program will be implemented by the current grantee, the American Indian Development Associates. No additional applications will be solicited in FY 1999.

TeenSupreme Career Preparation Initiative

In FY 1998, OJJDP, in partnership with the U.S. Department of Labor's

(DOL's) Employment and Training Administration, provided funding support to the Boys & Girls Clubs of America for demonstration and evaluation of the TeenSupreme Career Preparation Initiative. This initiative provides employment training and other related services to at-risk youth through local Boys & Girls Clubs with TeenSupreme Centers. In FY 1998, DOL funds supported program staffing in the existing 41 TeenSupreme Centers, provided intensive training and technical assistance to each site, and provided administrative and staffing support to this program from the national office. OJJDP funds supported the evaluation component of the program, which is to be implemented by an independent evaluator.

This jointly funded Department of Labor and OJJDP initiative will be implemented by the Boys & Girls Clubs of America. No additional applications will be solicited in FY 1999.

Training and Technical Assistance for National Innovations To Reduce Disproportionate Minority Confinement (The Deborah Ann Wysinger Memorial Program)

In FY 1997, recognizing the continued need to improve the ability of States and local jurisdictions to address disproportionate confinement of minority juveniles, OJJDP awarded a competitive grant to Cygnus Corporation to implement a 3-year national training, technical assistance, and information dissemination initiative. Since the 1988 reauthorization of the JJDP Act, State Formula Grants program plans have addressed disproportionate minority confinement (DMC). OJJDP's DMC funding efforts have included a competitive award to demonstrate model approaches in five State pilot sites (Arizona, Florida, Iowa, North Carolina, and Oregon) and an award to a national contractor to provide technical assistance to the pilot sites and other States. In addition, OJJDP made funds available to nonpilot States that had completed data gathering and assessment to use for innovative DMC projects.

This project will be implemented by the current grantee, Cygnus Corporation, Inc. No additional applications will be solicited in FY 1999.

Training and Technical Support for State and Local Jurisdictional Teams To Focus on Juvenile Corrections and Detention Overcrowding

Through systemic change within local juvenile detention systems or statewide juvenile corrections systems, this project seeks to reduce overcrowding in facilities where juveniles are held. Competitively awarded in FY 1994 to the National Juvenile Detention Association (NJDA), in partnership with the San Francisco Youth Law Center, the project provides training and technical assistance materials for use by State and local jurisdictional teams. NJDA selected three jurisdictions (Camden, New Jersey; Oklahoma City, Oklahoma; and the Rhode Island Juvenile Corrections System) for onsite development, implementation, and testing of procedures to reduce crowding. Of the original sites selected, Oklahoma City has completed its work. The grantee is exploring additional sites for comprehensive training and technical assistance in FY 1999.

This project will be implemented by the current grantee, the National Juvenile Detention Association. No additional applications will be solicited in FY 1999.

Child Abuse and Neglect and Dependency Courts

National Evaluation of the Safe Kids/Safe Streets Program

OJJDP will continue funding the grant competitively awarded in FY 1997 to Westat, Inc., Rockville, MD, for a national evaluation to document and explicate the process of community mobilization, planning, and collaboration that has taken place before and during the Safe Kids/Safe Streets awards; to inform program staff of performance levels on an ongoing basis; and to determine the effectiveness of the implemented programs in achieving the goals of the Safe Kids/Safe Streets program. The initial 18-month grant began a process evaluation and determined the feasibility of an impact evaluation.

This evaluation will be implemented by the current grantee, Westat, Inc. No additional applications will be solicited in FY 1999.

Safe Kids/Safe Streets: Community Approaches to Reducing Abuse and Neglect and Preventing Delinquency

This 5½ year demonstration program is designed to foster coordinated community responses to child abuse and neglect. Several components of the Office of Justice Programs joined in FY 1996 to develop this coordinated program response to break the cycle of early childhood victimization and later criminality and to reduce child abuse and neglect and resulting child fatalities. OJJDP awarded competitive cooperative agreements in FY 1997 to five sites (National Children's Advocacy Center, Huntsville, Alabama; the Sault Ste. Marie Tribe of Chippewa Indians, Sault Ste. Marie, Michigan; Heart of America United Way, Kansas City, Missouri; Toledo Hospital Children's Medical Center, Toledo, Ohio; and the Community Network for Children, Youth and Family Services, Chittenden County, Vermont). Funds were provided by OJJDP, the Executive Office for Weed and Seed, and the Violence Against Women Grants Office.

In FY 1999, continuation awards will be made to each of the current demonstration sites. No additional applications will be solicited in FY 1999.

Dated: June 29, 1999.

Shay Bilchik,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 99–17390 Filed 7–8–99; 8:45 am]

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Federal Register

Friday
July 9, 1999

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 93

Modification of the Dimensions of the Grand Canyon National Park Special Flight Rules Area and Flight Free Zones; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. FAA–99–5926; Notice No. 99–11]

RIN 2120–AG74

Modification of the Dimensions of the Grand Canyon National Park Special Flight Rules Area and Flight Free Zones

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the special operating rules and airspace for all persons operating aircraft in the airspace designated as the Grand Canyon Special Flight Rules Area (SFRA). Specifically, this action proposes to modify the eastern portion of the SFRA and the Desert View Flight-free Zone (FFZ) to address concerns raised by Native Americans; modify the Bright Angel FFZ to provide a provisional corridor to be available at a future date for noise efficient/quiet technology aircraft; modify the Sanup FFZ to provide for a planned revision to a commercial route over the northwestern section of the Grand Canyon National Park (GCNP); and provide for an additional commercial route over the northern section of the Sanup plateau for those aircraft transiting between Las Vegas, Nevada and Tusayan, Arizona. The FAA is taking this action as part of a continuing effort to assist the National Park Service in fulfilling its statutory mandate of providing for the substantial restoration of the natural quiet and experience in GCNP.

DATES: Comments must be received on or before September 7, 1999.

ADDRESSES: Comments on this NPRM should be mailed in triplicate to: U.S. Department of Transportation Dockets, Docket No. [FAA99–5926] 400 Seventh Street, SW., Washington DC, 20590. Comments may also be sent electronically to the Rules Docket by using the following Internet address: 9–NPRM–CMTS@faa.gov. Comments must be marked Docket No. FAA–99–5926]. Comments may be filed and examined in Room Plaza 401 on weekdays, except Federal holidays, between 10:00 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Joseph C. White, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783. For the draft Environmental Assessment contact Tina Hunter, Environmental Affairs Division, ATA–300, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC, 20591; telephone: (202) 267–7685.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that may result from adopting the proposals in this notice are also invited. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Communications should identify the regulatory docket number and be submitted in triplicate to the address listed above. All communications and a report summarizing any substantive public contact with FAA personnel on this rulemaking will be filed in the docket. The docket is available for public inspection both before and after the closing date for receiving comments.

Before taking any final action on this proposal, the Administrator will consider all comments made on or before the closing date for comments, and the proposal may be changed in light of the comments received. Late filed comments will be considered to the extent possible without incurring expense or delay.

The FAA will acknowledge receipt of a comment if the commenter includes a self-addressed, stamped postcard with the comment. The postcard should marked ''Comments to Docket No. [ ].'' When the comment is received, the postcard will be date stamped and mailed to the commenter.

Availability of This NPRM

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) or the Federal Register's electronic bulletin board service (telephone: (202) 512–1661). Internet users may reach the FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the **Federal Register**'12s web page at http://www.access.gpo.gov/su__docs for access to recently published rulemaking documents.

Any person may also obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Rulemaking, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Public Meetings

The FAA intends to hold two public meetings to provide interested persons an additional opportunity to comment on this proposal. The details pertaining to the public meetings will be announced in the notice section of the **Federal Register.** For more information, contact Linda Williams at (202) 267–9685 or by email at linda.1.williams@faa.gov

Background

On December 31, 1996, the FAA published a final rule amending part 93 of the Federal Aviation Regulations by adding a new subpart to codify the provisions of Special Federal Aviation Regulation (SFAR) No. 50–2, Special Flight Rules in the Vicinity of GCNP; modifying the dimension of the GCNP SFRA; establishing new and modifying existing flight corridors and FFZs; establishing reporting requirements for commercial sightseeing companies operating in the SFRA; restricting flights in the Zuni Point and Dragon Corridors during certain time periods (curfews); and limiting the number of aircraft that can be used for commercial sightseeing operations in the GCNP SFRA (aircraft cap) (61 FR 69302). The provisions contained in the final rule were to become effective on May 1, 1997.

Published concurrently with the final rule on December 31, 1996, was a notice of proposed rulemaking (NPRM) on noise limitations for aircraft operations in the vicinity of GCNP (noise efficient/quiet technology NPRM) and a notice of availability of proposed routes. All three of the above referenced actions comprise an overall strategy to further reduce the impact of aircraft noise on the park environment and to assist the National Park Service (NPS) in achieving its statutory mandate, imposed by Public Law 100–91, to provide for the substantial restoration of natural quiet and experience in GCNP.

On February 21, 1997, the FAA delayed the effective date for the expansion of the FFZs, the air tour routes, and other related airspace provisions of the rule until January 31, 1998 (62 FR 8861; February 26, 1997). However, this action did not affect or delay implementation of the curfew, aircraft cap, or the reporting requirements of the final rule, which became effective on May 1, 1997.

On December 17, 1997, the FAA took action to further delay the implementation of the above mentioned sections of the final rule and to further extend certain portions of SFAR 50–2 until January 31, 1999 (62 FR 66248). On December 7, 1998, the FAA again took action to further delay implementation of the above mentioned sections and to extend certain portions of SFAR 50–2 until January 31, 2000 (63 FR 67544).

Recent Actions

On May 15, 1997, the FAA published a Notice of Availability of Proposed Routes and a companion NPRM (Notice No. 97–6) that proposed two noise efficient/quiet technology incentive corridors over the GCNP (62 FR 26901). The first corridor, through the Bright Angel FFZ, was planned for use by noise efficient/quiet technology aircraft use only. The second corridor, through National Canyon, was planned for use by noise efficient/quiet technology aircraft westbound after December 31, 2001. The FAA, in consultation with the NPS, determined not to proceed with a corridor through National Canyon. The FAA received suggestions for alterations and refinements from officials of the GCNP and NPS that could potentially produce noise reductions. Based on comments from environmentalists, Native Americans, and air tour operators, the FAA was led to conclude that the National Canyon air tour route was not a viable option. This proposal was subsequently withdrawn in July 1998, along with the quiet technology NPRM's proposal for a route through the central portion of GCNP. Due to resource constraints, the FAA has not been able to prepare a disposition of the comments received in response to Notice 97–6. The FAA plans to summarize those comments and publish a disposition of comments document in the **Federal Register.**

The Proposal

Special Flight Rules Area and Desert View FFZ

In this action, the FAA is proposing to modify the Grand Canyon SFRA by moving the eastern boundary five (5) nautical miles to the east. The FAA is also proposing to modify the Desert View FFZ by moving the eastern boundary five (5) nautical miles to the east.

The current design of the eastern portion of the SFRA and the Desert View FFZ allows entry and exit as well as travel over several Traditional Cultural Properties (TCP) on the eastern side of the Grand Canyon National Park, of importance to the Zuni, Hopi, and Navajo Tribes. These sites were identified through consultation with affected tribes in accordance with Section 106 of the National Historic Preservation Act (NHPA). The specific locations of the TCP are not identified pursuant to section 304 of the NHPA which provides for confidentiality of cultural and religious sites. The proposed expansion of the Desert View FFZ and associated proposed changes to the SFRA would provide mitigation of impacts on the TCP in accordance with Section 106 requirements.

Bright Angel Flight-Free Zone

The FAA is proposing to reinstate the provisional incentive corridor, one nautical mile in width, through the Bright Angel FFZ to be used at some future date only by aircraft meeting a noise efficiency/quiet technology standard. The FAA acknowledges that currently no standard for noise efficient/quiet technology aircraft exists. Both the FAA and NPS are anticipating, however, that such a standard will be developed in the future. Readers must understand that until such a standard is developed and adopted, that the Bright Angel incentive corridor will not be available for commercial operations. The FAA and NPS find that it is of value, however, for commenters to have the opportunity to comment on the merit of this specific proposal.

This proposed incentive corridor would pass through the Bright Angel FFZ along the northern boundary of the current Bright Angel FFZ as defined in SFAR 50–2. Even without a standard, it is intuitively clear that the proposed Bright Angel Corridor would have a three-fold benefit. First, fewer aircraft would be flying over the northern rim of the canyon along the Saddle Mountain Wilderness Area, where the NPS and U.S. Forest Service have indicated that noise-sensitive activity regularly occurs. Second, noise from the air tour aircraft would be dispersed between the northern boundary of the Bright Angel FFZ and the proposed incentive corridor, thereby reducing the level of concentrated aircraft noise along any one route. Third, opening this corridor to aircraft that could meet the noise efficiency/quiet technology standard, yet to be developed, would provide a valuable and tangible incentive for the air tour operators to convert to quieter aircraft. The GCNP could thereby experience the benefit of a reduction in the level of aircraft noise over time.

Sanup Flight-Free Zone

The FAA is proposing to modify the Sanup FFZ to continue to provide for a commercial route over the northwestern section of the GCNP and to provide for an additional commercial route between the vicinity of Las Vegas, Nevada and Tusayan, Arizona. As discussed in the preamble to the December 1996 final rule (61 FR 69302), the Blue 1 and Blue 1A routes were eliminated due to environmental and Native American concerns. Concurrently, the noise limitations NPRM included a corridor to permit routes through National Canyon to continue with noise efficient/quiet technology aircraft. Since the FAA did not finalize the NPRM and delayed the effective date for the December 1996 final rule and extended certain portions of SFAR 50–2 until January 31, 2000, they are still in use. With the elimination of the Blue 1 and Blue 1A, the FAA anticipates that aircraft operating on these routes would move to the Blue Direct, which may be renamed Blue Direct North (BDN), thus increasing operations on the route. The Blue Direct South (BDS) route was eliminated from the December 1996 and April 1997 route maps. Therefore, to accommodate safely the expected increase in operations moving from the Blue 1 and Blue 1A, the FAA plans to restore and modify the BDS route. The FAA recognizes that increased aircraft operations on BDS would be over the northern portion of the newly created Sanup FFZ (December 1996 final rule), at altitudes less than 3,000 feet above the elevation of some areas of the Sanup plateau. At this altitude, these aircraft operations may have a noise impact. It is with this in mind that the FAA believes that the northern portion of the Sanup FFZ, that would lie beneath BDS, should be eliminated from the FFZ to accommodate safely an additional route between Tusayan, Arizona and Las Vegas, Nevada. Therefore, the FAA is proposing to modify the Sanup FFZ by moving the northern portion of the FFZ south approximately one mile south of the BDS route.

Additionally, to provide for a proposed revision of the current Blue 2 commercial route over the northwestern portion of the GCNP, the FAA is proposing to modify the Sanup FFZ by moving the northwestern portion of the

FFZ east approximately one mile east of the Blue 2 route.

Information on the proposed commercial routes for the Grand Canyon SFRA can be obtained through instructions in a Notice of Availability that will be published concurrently with this proposed rulemaking effort. In addition, the alternatives considered are more fully discussed in the Environmental Assessment for these rulemaking/nonrulemaking efforts.

Economic Summary

Any changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect 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. A regulatory evaluation of the proposal is in the docket.

Because of the continued high public interest surrounding GCNP regulations and the potential implications within a small locality, the FAA has determined that this notice of proposed rulemaking is considered a significant regulatory action under 3(f) of Executive Order 12866 and, therefore, is subject to review by the Office of Management and Budget. This notice is considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034; February 26, 1979). The FAA, however, has determined that this NPRM would not have a significant economic impact on a substantial number of small entities (commercial air tour operators conducting flights within Grand Canyon National Park), and does not warrant further regulatory flexibility action. Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Federal Aviation Administration certifies that this rule would not have a significant economic impact on a substantial number of small entities.

This NPRM would not have a significant impact on international trade.

Introduction

The FAA proposes to modify the Grand Canyon National Park (GCNP) Special Flight Rules Area (SFRA) and three Flight-free Zones (FFZs). The eastern boundaries of the SFRA and the Desert View FFZ would each be moved five (5) nautical miles to the east, respectively. The FAA also proposes to modify the Bright Angel FFZ to provide an incentive corridor, one nautical mile in width, for use at some time in the future by only the most noise efficient/quiet technology aircraft. Finally, the FAA proposes to modify the Sanup FFZ to continue to provide for a commercial air tour route over the northwestern section of the GCNP.

Costs

Costs associated with the reconfiguration of the Desert View and Bright Angel FFZs, as described in 14 CFR § 93.305, were accounted for in the December 31, 1996 final rule (61 FR 69302), hereafter referred to as the Final Rule. This analysis, therefore, is concerned only with the costs associated with the currently proposed modifications to the reconfigurations.

14 CFR § 93.317 requires each operator (effective May 1, 1997) to report to the FAA the following commercial air tour activity for each flight conducted in the Grand Canyon SFRA: (1) routes flown; (2) departure airport, date and time; and (3) aircraft registration number. Based on the operator reports, the FAA has developed a database for the time period May 1997 through April 1998, the first full year of operator reporting. The information developed in the database forms the basis, or baseline, for the following economic analysis.

Special Flight Rules Area and Desert View Flight-Free Zone

The Black 2E and Green 3E routes are the only air tour routes that would be affected by the eastward shifts of the SFRA and the Desert View FFZ. During the baseline period, three operators conducted 577 air tours that would likely use the Black 2E route. The combined estimated gross operating revenue of these three operators for tours which would use the Black 2E route was about $825,000; net operating revenue adjusted for variable operating costs was $496,000.

The FAA believes that a shift in the Black 2E route eastward resulting from the eastward shift in the SFRA and Desert View FFZ by 5 nautical miles would serve only to realign the access/approach to the Black 2 tour route. It would not alter the tour offerings of the individual operator, and any changes in the operator's variable operating costs resulting from adding 5 nautical miles to the overall air tour (about 2–3 minutes) are small. Similarly, the FAA believes there will be little impact on the three operators entering the SFRA on the Black 2E route to conduct air tours of the Canyon. Therefore, the FAA concludes that this part of the proposed rulemaking is non-significant and requests comments.

Bright Angel Flight-Free Zone

In the Final Rule, the FAA determined that the increase in average annual variable operating costs associated with the expansion of the Bright Angel FFZ was just over $1 million. FAA argued that these costs could be passed onto the consumer as higher ticket prices so long as all operators were similarly confronted by higher variable operating costs. The FAA concluded, therefore, that no net operating losses would be borne by GCNP air tour operators. The full societal cost of the increase in variable operating costs would be reflected in higher commercial air tour prices and would be borne by the consumer.

This NPRM proposes to re-open a provisional flight corridor (incentive corridor) along the routes that are currently depicted on the Grand Canyon VFR Aeronautical Chart as the Green 1A and Black 1A, or Alpha routes. This corridor would be available at some future date only to noise efficient/quiet technology aircraft. Currently, the FAA and the NPS have not defined a standard for what is a noise efficient/quiet technology aircraft. Consequently, the route will not be available for immediate use. However, for the purpose of this cost analysis, the FAA has assumed that one or more operator(s) may use aircraft that meet the above standard, and that this (these) operator(s) could use the corridor and thereby benefit from no increase in variable operating costs.

The FAA believes that the operator(s) assumed to be permitted to conduct air tours on the incentive route would continue to conduct air tours along the Black 1A route or Green 1A route as per usual business practice, and thus would avoid the higher variable operating costs facing competitors. The FAA assumes cost relief would accrue to the operator(s) conducting air tours in noise efficient/quiet technology aircraft. By holding constant the price of the ''Black 1, 1A'' air tour or ''Green 1, 1A'' air tour, this (these) operator(s) could become the price setter(s), and some of their competitors conducting commercial air tours along other, longer tour routes may be required to absorb the increased variable operating costs to remain price competitive. The FAA estimates, however, that only one (or two) of these operators would have to maintain the current price in the face of rising variable operating costs. The amount of cost transfer from consumers of air tours

to this operator over the 1999–2008 time period would depend on which operator (or operators) ultimately introduce quiet aircraft. A discussion of this expectation is presented in a section summarizing the ''Initial Regulatory Flexibility Analysis'' below.

Sanup Flight-Free Zone

The Sanup FFZ would be altered to accommodate other proposed FAA action contained in the concurrent Notice of Route Availability, thereby providing current commercial air tour traffic using the Blue 1, Blue Direct and Blue Direct South routes a commercial air tour route. The FAA has identified no costs associated with the alteration of the Sanup FFZ.

Cost Summary

The FAA estimates that any costs associated with the eastward expansion of the SFAR and Desert View FFZ 5 nautical miles would be non-significant. Also, the FAA determines that the proposed modification to the Sanup FFZ would result in no additional costs. However, the FAA estimates the cost impact of the proposed Bright Angel FFZ incentive corridor could result in some reduction in average annual variable operating costs and accompanying price increases previously estimated in the Final Rule. In addition, some of the remaining cost burden previously estimated in the Final Rule would shift from air tour consumers to one or two air tour operators.

Benefits

The benefits associated with this NPRM include the following:

(1) The potential reduction in the impact of air tours over Traditional Cultural Properties as a result of the proposed modification of the eastern portion of the SFRA and the Desert View FFZ; (2) a reduction in the number of aircraft flying over the northern rim of the canyon along Saddle Mountain as a consequence of the proposed incentive corridor, which could result in some dispersal of noise from air tour aircraft over an area the NPS has pointed out as noise sensitive; and (3) the provision of an incentive for the air tour operators to convert to quieter aircraft. The particular groups that would benefit most from this rulemaking action are Native Americans and some of the operators and consumers of GCNP commercial air tours.

The establishment of the proposed corridor for noise efficient/quiet technology aircraft through the Bright Angel FFZ along the ''Alpha'' routes would mitigate some of the potential adverse effects created by the consolidation of aircraft overflight noise at the northern edge of the expanded FFZ as described in the Final Rule. Furthermore, to the extent the consumer perceives the current shorter, more established commercial air tour through the proposed incentive corridor as having a greater value, then demand for these tours conducted in the more noise efficient/quiet technology aircraft would increase. Concurrently, demand for the longer commercial air tours that are conducted in less noise efficient/quiet technology aircraft could decrease. In combination, the two potential outcomes of this proposed rulemaking could create a significant incentive for operators of non-qualifying aircraft to convert to quieter aircraft.

the expansion of the eastern boundary of the SFRA and the Desert View FFZ redress certain concerns of the Native Americans in that area while at the same time imposing no perceived additional costs on operators.

Benefit/Cost Comparison

The FAA has determined that the three proposed modifications could result in net cost savings for some commercial air tour operators while one or two operators could be forced to absorb cost increases associated with the Final Rule. However, there will be no significant net increase in societal costs, only redistribution between producers and consumers of Grand Canyon air tours. This rulemaking would result in a potential reduction of noise over Native American Traditional Cultural Properties and a potential reduction of noise over the sensitive northern rim of the Canyon along Saddle Mountain, and would provide an incentive for air tour operators to convert to quieter aircraft.

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 establishes ''as a 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 principal, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rational 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 proposed or 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. However, if an agency determines that a proposed or 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.

Ten operators (7 fixed-wing; 3 helicopter) conducted air tours during the base period of May 1997–April 1998 along routes that would be affected by the proposed incentive corridor modification to the Bright Angel FFZ. In the regulatory evaluation, the FAA assumed that one or more operators of aircraft that qualified for operating on the incentive route might avoid the estimated increase in variable operating costs determined in the Final Rule, and therefore, would not have to raise ticket prices to offset higher costs.

The FAA believes that if the above qualifying operators use fixed-wing aircraft and operate out of Tusayan, then the helicopter operators at Tusayan could continue to pass the increase in variable operating costs resulting from the expansion of the Bright Angel FFZ accounted for in the Final Rule onto the consumer as higher prices, and would not be impacted by the proposed rulemaking. The three helicopter operators have been able to maintain their air tour fares twice that of the fixed-wing operators in a declining market for East-end air tours. This suggests that helicopters and fixed-wing operators are not close competitors in the East-end GCNP market.

Of the fixed-wing operators conducting air tours in non-qualifying aircraft in competition with the above qualifying fixed-wing operators, two ceased operating as Grand Canyon air tour operators during the baseline period May 1997–April 1998. Therefore, this rulemaking would no longer be applicable to them. A third operator conducted 10 ''Black 1, 1A'' air tours during the baseline period, but this accounted for only one one-thousandth of this operator's total Grand Canyon air tour business. The FAA believes that this operator would not be affected by this rulemaking. Another operator, originating out of Phoenix, AZ, is the only remaining operator providing a Grant Canyon air tour service from the Phoenix market. Furthermore, this operator includes the ''Black 1, 1A'' tour

only as a part of a more comprehensive air tour, the price for which is 3 to 4 times the ''Black 1, 1A'' air tour as offered by the other operators. Therefore, this operator, because of a captured market and exclusive tour offering, would likely be able to pass on the increase in variable operating costs to customers without consequence, and thus, would not be impacted by this NPRM, either.

One fixed-wing aircraft operator also conducts helicopter tours in the East-end of the Canyon in addition to the fixed-wing ''Black 1, 1A'' tour during the baseline period. The price of this operator's helicopter tours, however, are at the low end ($150) of the price range, and the portion of his total air tour business represented by his fixed-wing ''Black 1, 1A'' tour is only about 17 percent. If this operator were to redistribute the per passenger increase in variable operating costs for this fixed-wing customers to his helicopter customers (cross-subsidy), it would add about $1.35 to the ticket price of the helicopter air tour, and this operator would still be a below market price for a helicopter air tour on the East-end.

The remaining fixed-wing operator(s) conducting ''Black 1, 1A'' air tours in non-qualifying aircraft on the East-end of the Canyon, could be significantly affected by the introduction of quiet aircraft by a competitor, in that the increased operating costs imposed by the Final rule may no longer be passed onto the customers because of the operator(s) who may be able to operate in the incentive corridor established by this proposal. This cost could be as much as $7 per passenger. The FAA does not consider one or two small operators to be a substantial number of small operators significantly impacted by this proposed rule.

The FAA believes that if the qualifying operator(s) use helicopters and operate out of Tusayan, then the fixed-wing operators could continue to pass the increase in variable operating costs resulting from the expansion of the Bright Angel FFZ in the Final Rule onto the consumer as higher prices, and the (these) remaining helicopter operator(s) would not be impacted by the proposed rulemaking (in the East-end market, helicopter operators and fixed-wing operators are not close competitors). The remaining non-qualifying helicopter operator(s) at Tusayan could be significantly affected by competition from the qualifying helicopter operator(s) in that the increased operating costs imposed by the 1996 final rule may no longer be passed onto the customers. The FAA does not consider one or two small operators to be a substantial number of small operators significantly impacted by this proposed rule.

Last, the FAA believes that if a qualifying operator operates from an airport other than Tusayan, the remaining East-end operators could continue to pass the increase in variable operating costs resulting from the expansion of the Bright Angel FFZ accounted for in the Final Rule onto the consumer. The remaining operators are located at different airports and would not be in direct competition with the qualifying operator.

Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Federal Aviation Administration certifies that this rule would not have a significant economic impact on a substantial number of small entities. The FAA solicits comments from affected entities with respect to this finding and determination.

International Trade Impact Assessment

The FAA has determined that the proposed rulemaking would have no affect on non-U.S. operators of foreign aircraft operating outside the United States nor would it have an affect on U.S. trade to trade relations. However, because the proposed rulemaking has been determined to be cost beneficial to commercial air operators and a large proportion of GCNP commercial air tour passengers are foreign, it could have a positive affect on foreign tourism in the U.S. The FAA cannot put a dollar value on the potential gain in commercial air tour revenue associated with possible increases in foreign tour dollars.

Environmental Review

The FAA is preparing a draft supplemental environmental assessment (EA) for this proposed action to ensure conformance with the National Environmental Policy Act of 1969 and other applicable environmental laws. The draft supplemental EA indicates that this NPRM, the companion air tour limitation NPRM, and revised air tour routes on the western and of the Sanup would result in 41.3% of the GCNP achieving natural quiet 75% of the time by 2008.

Copies of the draft supplemental EA will be circulated to interested parties and placed in the docket, where it will be available for review.

The proposed rule is premised on the National Park Service's noise evaluation methodolology for GCNP, which was published in the **Federal Register** on January 26, 1999 (64 FR 3969). The NPS is reviewing comments submitted in response to that notice. If, on completion of that review, the NPS determines not to adopt the methodology described in the notice (such as the two-zone system and accompanying noise thresholds), the FAA will reevaluate the proposal and draft Supplemental Environmental Assessment in light of whatever final action is taken by the NPS.

Federalism Implications

This proposed rule would not have substantial 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 12866, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13), there are no requirement for information collection associated with the proposed regulation.

List of Subjects in 14 CFR Part 93

Air traffic control, Airports, Naviagtion (air), Reporting and recordkeeping requirements.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 93 of Title 14, Chapter 1, Code of Federal Regulations as follows:

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

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

Authority: 49 U.S.C. 106(g), 40103, 40106, 40109, 40113, 44502, 44514, 44701, 44719, 46301.

2. Section 93.301 is revised as follows:

Subpart U—Special Flight Rules in the Vicinity of Grand Canyon National Park, AZ

§ 93.301 Applicability.

This subpart prescribes special operating rules for all persons operating aircraft in the following airspace, designated as the Grand Canyon National Park Special Flight Rules Area: That airspace extending from the surface up to but not including 18,000 feet MSL within an area bounded by a line beginning at Lat. 35°55′ 12″ N., Long. 112°04′ 05″ W.; east to Lat. 35°55′38″ N., Long. 111°36′03″ W.;

north to Lat. 36°15′30″ N., Long. 111°36′06″ W.; to Lat. 36°24°49″ N., Long. 111°47′45″ W.; to Lat. 36°52′23″ N., Long. 111°33′10″ W.; west-northwest to Lat. 36°53′37″ N., Long. 111°38°29″ W.; southwest to Lat. 36°35′02″ N., Long. 111°53′28″ W.; to Lat. 36°21′30″ N., Long. 112°00′03″ W.; west-northwest to Lat. 36°30′30″ N., Long. 112°35′59″ W.; southwest to Lat. 36°24′46″ N., Long. 112°51′10″ W.; thence west along the boundary of Grand Canyon National Park (GCNP) to Lat. 36°14′08″ N., Long. 113°10′07″ W.; west-southwest to Lat. 36°09′50″ N., Long 114°01′53″ W.; southeast to Lat. 36°06′24″ N., Long. 113°58′46″ W.; thence south along the boundary of GCNP to Lat. 36°00′23″ N., Long. 113°54′11″ W.; northeast to Lat. 36°02′14″ N., Long 113°50′16″ W.; to Lat. 36°02′16″ N., Long. 113°48′08″ W.; thence southeast along the boundary of GCNP to Lat. 35°58′09″ N., Long. 113°45′04″ W.; southwest to Lat. 35°54′48″ N., Long. 113°50′24″ W.; southeast to Lat. 35°41′01″ N., Long. 113°35′27″ W.; thence clockwise via the 4.2-nautical mile radius of the Peach Springs VORTAC to Lat. 35°28′53″ N., Long. 113°27′49″ W.; northeast to Lat. 35°42′58″ N., Long. 113°10′57″ W.; north to Lat. 35°57′51″ N., Long. 113°11′06″ W.; east to Lat. 35°57′44″ N.; Long. 112°14′04″ W.; thence clockwise via the 4.3-nautical mile radius of the Grand Canyon National Park Airport reference point (Lat. 35°57′08″ N., Long. 112°08′49″ W.) to the point of origin.

3. Section 93.305 is amended by revising paragrpah (a), by adding a new sentence to the end of paragraph (b), and by revising paragraph (d) to read as follows: (**Note:** All instructions in this amendment refer to § 93.305 as it currently exists. But if adopted, these changes would be made in addition to the changes in Notice No. 99–12 published elsewhere in this issue):

§ 93.305 Flight-free zones and flight corridors.

* * * * *

(a) *Desert View Flight-free Zone.* That airspace extending from the surface up to but not including 14,500 feet MSL within an area bounded by a line beginning at Lat. 35°59′58″ N., Long. 111°52′47″ W.; thence east to Lat. 36°00′00″ N., Long. 111°51′04″ W.; thence north to 36°00′24″ N.; Long. 111°51′04″ W.; thence east to 36°00′24″ N., Long. 111°45′44″ W.; continue east to 36°00′24″ N., Long. 111°39′34″ W.; thence north to 36°12′35″ N., Long. 111°39′33″ W.; thence west to 36°12′35″ N., Long. 111°45′44″ W.; thence west and north along the GCNP boundary to Lat. 36°14′05″ N., Long. 111°48′34″ W.; thence southwest to Lat. 36°12′06″ N., Long. 111°51′14″ W.; to the point of origin; but not including the airspace at and above 10,500 feet MSL within 1 nautical mile of the western boundary of the zone. The corridor to the west between the Desert View and Bright Angel Flight-free Zones, is designated the ''Zuni Point Corridor.'' * * *

(b) * * * The Bright Angel Flight-free Zone does not include the following airspace designated as the Bright Angel Corridor: That airspace one-half nautical mile on either side of a line extending from Lat. 36°14′21.24″ N., Long. 112°08′57.54″ W. and Lat. 36°14′15.32″ N., Long. 111°55′07.32″ W.

* * * * *

(d) *Sanup Flight-free Zone.* That airspace extending from the surface up to but not including 8,000 feet MSL within an area bounded by a line beginning at Lat. 35°59′32″ N., Long. 113°20′28″ W.; west to Lat. 36°00′55″ N., Long. 113°42′09″ W.; southeast to Lat. 35°59′57″ N., Long. 113°41′09″ W., to Lat. 35°59′09″ N., Long. 113°40′53″ W.; to Lat. 35°58′45″ N., Long. 113°40′15″ W.; to Lat. 35°57′52″ N., Long. 113°39′34″ W.; to Lat. 35°56′44″ N., Long. 113°39′07″ W.; to Lat. 35°56′04″ N., Long. 113°39′20″ W.; to Lat. 35°55′02″ N., Long. 113°40′43″ W.; to Lat. 35°54′47″ N., Long.113°40′51″ W., southeast to Lat. 35°50′16″ N., Long. 113°37′13″ W.; thence along the park boundary to the point of origin.

Issued in Washington, DC, on July 1, 1999.

Reginald C. Matthews,

Acting Program Director, Air Traffic Airspace Management Program.

[FR Doc. 99–17320 Filed 7–6–99; 12:06 pm]

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Friday
July 9, 1999

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 93

Commercial Air Tour Limitation in the Grand Canyon National Park Special Flight Rules Area; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. FAA–99–5927; Notice No. 99–12]

RIN 2120–AG73

Commercial Air Tour Limitation in the Grand Canyon National Park Special Flight Rules Area

AGENCY: Federal Aviation Administration (FAA, DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to limit the number of commercial air tours that may be conducted in the Grand Canyon National Park Special Flight Rules Area (SFRA) and to revise the reporting requirements for commercial air tours in the SFRA. These proposed changes would allow the FAA and the National Park Service (NPS) to limit and further assess the impact of aircraft noise on the Grand Canyon National Park (GCNP). In addition, this action proposes non-substantive changes to 14 CFR part 93, subpart U to improve the organization and clarity of the rule. This document is one part of an overall strategy to control aircraft noise on the park environment and to assist the NPS in achieving the statutory mandate imposed by Public Law 100–91 to provide substantial restoration of natural quiet in the GCNP.

DATES: Comments must be received on or before September 7, 1999.

ADDRESSES: Comments on this NPRM should be mailed or delivered, in triplicate, to: U.S. Department of Transportation Dockets, Docket No., [ ], 400 Seventh Street SW., Room Plaza 401, Washington, DC 20590. Comments may also be sent electronically to the following Internet address: *9–NPRM–CMTS@faa.gov*. Comments may be filed and examined in Room Plaza 401 between 10:00 a.m. and 5:00 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Alberta Brown, AFS–200, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone: (202) 267–8321.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that may result from adopting the proposals in this notice are also invited. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions. Comments should identify the regulatory docket number and be submitted in triplicate to the above-specified address. A report summarizing any substantive public contact with FAA personnel on this rulemaking will be filed in the docket. The docket is available for public inspection both before and after the closing date for receiving comments.

Before taking any final action on this proposal, the Administrator will consider all comments made on or before the closing date for comments, and the proposal may be changed in light of the comments received.

The FAA will acknowledge receipt of a comment if the commenter includes a self-addressed, stamped postcard with the comment. The postcard should be marked ''Comments to Docket No. .'' The FAA will date, time stamp, and return the postcard.

Availability of the NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Rulemaking, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9677. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future FAA NPRMs should request a copy of advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes application procedures.

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) or the **Federal Register**'s electronic bulletin board service (telephone: (202) 512–1661). Internet users may access the FAA's Internet site at http://www.faa.gov or the **Federal Register**'s Internet site at http://www.access.gpo.gov/su__docs for access to recently published rulemaking documents.

Public Meetings

The FAA intends to hold two public meetings to provide interested members of the public an additional opportunity to comment on this proposal. The details pertaining to the public meetings will be announced in the notice section of the **Federal Register**. For more information, contact Mark Lawyer at (202) 493–4531 by telephone or *mark.lawyer@faa.gov* by email.

I. History

A. FAA's Actions

Beginning in the summer of 1986, the FAA initiated regulatory action to address increasing air traffic over Grand Canyon National Park (GCNP). On March 26, 1987, the FAA issued Special Federal Aviation Regulation (SFAR) No. 50 establishing a special flight rules area and other flight regulations in the vicinity of the GCNP (52 FR 9768). The purpose of the SFAR was to reduce the risk of midair collision and decrease the risk of terrain contact accidents below the rim level. These requirements were modified and extended by SFAR 50–1 (52 FR 22734; June 15, 1987).

In 1987 Congress enacted Public Law (Pub. L.) 100–91, commonly known as the National Parks Overflights Act. Public Law 100–91 stated, in part, that ''noise associated with aircraft overflights at Grand Canyon National Park [was] causing a significant adverse effect on the natural quiet and experience of the park and current aircraft operations at the Grand Canyon National Park have raised serious concerns regarding public safety, including concerns regarding the safety of park users.''

Section 3 of Public Law 100–91 required the Department of Interior (DOI) to submit to the FAA recommendations to protect resources in the Grand Canyon from adverse impacts associated with aircraft overflights. The law mandated that the recommendations provide for, in part, ''substantial restoration of the natural quiet and experience of the park and protection of public health and safety from adverse effects associated with aircraft overflights,''

In December 1987, the DOI transmitted its ''Grand Canyon Aircraft Management Recommendation'' to the FAA, which included both rulemaking and non-rulemaking actions. Public Law 100–91 required the FAA to prepare and issue a final plan for the management of air traffic above the Grand Canyon, implementing the recommendations of DOI without change unless the FAA determined that executing the recommendation would adversely affect aviation safety.

On May 27, 1988, the FAA issued SFAR No. 50–2, revising the procedures for aircraft operation in the airspace above the Grand Canyon (53 FR 20264; June 2, 1988). SFAR No. 50–2 did the following: (1) Extended the Special

Flight Rules Area (SFRA) from the surface to 14,499 feet above mean sea level (MSL) in the area of the Grand Canyon; (2) prohibited flight below a certain altitude in each of the five sectors of this area, with certain exceptions; (3) established four flight-free zones from the surface to 14,499 feet MSL; (4) provided for special routes for air tours; and (5) contained certain communications requirements for flights in the area.

A second major provision of section 3 of Public Law 100–91 required the DOI to submit a report to Congress discussing ''whether the plan has succeeded in substantially restoring the natural quiet in the park; and * * * such other matters, including possible revisions in the plan, as may be of interest.'' On September 12, 1994, the DOI submitted its final report and recommendations to Congress. This report, entitled, ''Report on Effects of Aircraft Overflights on the National Park System'' (Report to Congress), was published in July, 1995. The Report to Congress recommended numerous revisions to SFAR No. 50–2 in order to substantially restore natural quiet in the GCNP.

Recommendation No. 10, which is of particular interest to this rulemaking, states: ''Improve SFAR 50–2 to Effect and Maintain the Substantial Restoration of Natural Quiet at Grand Canyon National Park.'' This recommendation incorporated the following general concepts: simplification of the commercial sightseeing route structure; expansion of the flight-free zones; accommodation of the forecasted growth in the air tour industry; proposing phase-in of noise efficient/quiet technology aircraft; temporal restrictions (''flight-free'' time periods); use of the full range of methods and tools for problem solving; and institution of changes in approaches to park management, including the establishment of an acoustic monitoring program by the NPS in coordination with the FAA.

On June 15, 1995, the FAA published a final rule that extended the provisions of SFAR No. 50–2 to June 15, 1997 (60 FR 31608), pending implementation of the final rule adopting DOI's recommendations.

On December 31, 1996, the FAA issued the final rule (61 FR 69302) implementing many of the recommendations set forth in the DOI report including: flight-free zones and corridors; minimum flight altitudes; general operating procedures; curfews in the Dragon and Zuni Point corridors; reporting requirements; and a cap on the number of ''commercial sightseeing'' aircraft that could operate in the SFRA. The FAA subsequently issued a written interpretation stating that the aircraft cap applied to the number of aircraft operating in the SFRA at a given time.

This final rule was issued concurrently with a Notice of Proposed Rulemaking regarding Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park; a Notice of Availability of Proposed Commercial Air Tour Routes for Grand Canyon National Park and Request for Comments; and the Environmental Assessment. The final rule was originally scheduled to become effective May 1, 1997. On February 26, 1997, the FAA published a delay of the effective date to January 31, 1998 (62 FR 8861), for the establishment of an acoustic monitoring program by the NPS in coordination with the FAA.

On June 15, 1995, the FAA published a final rule that extended the provisions of SFAR No. 50–2 to June 15, 1997 (60 FR 31608), pending implementation of the final rule adopting DOI's recommendations.

On December 31, 1996, the FAA issued the final rule (61 FR 69302) implementing many of the recommendations set forth in the DOI report including: flight-free zones and corridors; minimum flight altitudes; general operating procedures; curfews in the Dragon and Zuni Point corridors; reporting requirements; and a cap on the number of ''commercial sightseeing'' aircraft that could operate in the SFRA. The FAA subsequently issued a written interpretation stating that the aircraft cap applied to the number of aircraft operating in the SFRA at a given time.

This final rule was issued concurrently with a Notice of Proposed Rulemaking regarding Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park; a Notice of Availability of Proposed Commercial Air Tour Routes for Grand Canyon National Park and Request for Comments; and the Environmental Assessment. The final rule was originally scheduled to become effective May 1, 1997. On February 26, 1997, the FAA published a delay of the effective date to January 31, 1998 (62 FR 8861), for those portions of the December 31, 1996, final rule which define the Grand Canyon SFRA (14 CFR § 93.301), define the flight-free zones and flight corridors (14 CFR § 93.305), and establish minimum flight altitudes in the vicinity of the GCNP (14 CFR § 93.307). The February 26, 1997, final rule also reinstated the corresponding sections of SFAR 50–2 until January 31, 1998 (flight-free zones, the Special Flight Rules Area, and minimum flight altitudes). On December 17, 1997, the effective date for these sections was delayed to January 31, 1999 (62 FR 66248). On December 7, 1998, the effective date for 14 CFR §§ 93.301, 93.305, and 93.307, was delayed until January 31, 2000 (63 FR 67543).

The FAA's final rule published in 1996 was challenged before the U.S. Court of Appeals for the District of Columbia Circuit by the following petitioners: Grand Canyon Air Tour Coalition; the Clark County Department of Aviation and the Las Vegas Convention and Visitors Authority; the Hualapai Indian Tribe; and seven environmental groups led by the Grand Canyon Trust. See Grand Canyon Air Tour Coalition v. FAA, 154 F.3d 455 (D.C. Cir., 1998). In general, the petitioners charged that the FAA mis-applied Public Law 100–91 in implementing the final rule and committed several procedural errors during the rulemaking process. The Court ruled in favor of the FAA and upheld the final rule.

B. Interagency Working Group

On December 22, 1993, the then Secretary of Transportation, Federico Peña, and Secretary of the Interior, Bruce Babbitt, formed an interagency working group (IWG) to explore ways to limit or reduce the impacts from overflights on national parks, including the GCNP. Secretary Babbitt and Secretary Peña concurred that increased flight operations at GCNP and other national parks have significantly diminished the national park experience for some park visitors, and that measures can and should be taken to preserve a quality park experience for visitors, while providing access to the airspace over the national parks. The FAA has been working closely with the NPS to identify and address the impacts of commercial air tours on the GCNP.

C. President's memorandum

The President, on April 22, 1996, issued a Memorandum for the Heads of Executive Departments and Agencies to address the impact of transportation in national parks. Specifically, the President directed the Secretary of Transportation to issue proposed regulations for the GCNP that would place appropriate limits on sightseeing aircraft to reduce the noise immediately, and to make further substantial progress towards restoration of natural quite, as defined by the Secretary of the Interior, while maintaining aviation safety in accordance with Public Law 100–91.

This memorandum also indicated that, with regard to overflights of the

GCNP, ''should any final rulemaking determine that issuance of a further management plan is necessary to substantially restore natural quite in the Grand Canyon National Park, [the Secretary of Transportation, in consultation with heads of relevant departments and agencies] will complete within 5 years a plan that addresses how the Federal Aviation Administration and the National Park Service'' will achieve the statutory goal not more than 12 years from the date of the directive (i.e., 2008).

II. Purpose of This NPRM

The government has analyzed the noise situation at the GCNP over the last two years and has decided that a greater effort must be made to reach the statutory goals of Public Law 100–91, especially in light of the President's Memorandum. Noise generated by aircraft conducting commercial air tours presents a specific type of problem because these aircraft generally are operated repeatedly at low altitudes over the same routes. Thus, the FAA issued its 1996 final rule and instituted the aircraft cap as a means to limit aircraft noise generated by air tours.

In the 1996 final rule, however, the FAA underestimated the number of aircraft operated in the SFRA by commercial air tour operators. This problem was identified in the Notice of Clarification issued October 31, 1997 (62 FR 58,898). In fact, the FAA concluded in this Notice that ''there is enough excess capacity in terms of aircraft numbers for air tours to increase by 3.3 percent annually for the next twelve years if the demand exists (62 FR 58902).'' The FAA went on to state that ''in the aggregate, and for most individual operators, the number of air tours provided can continue to increase while the number of aircraft remains the same.'' In light of this conclusion, the IWG recommended that the FAA and NPS develop a rule that will temporarily limit commercial air tours in the GCNP SFRA at the level reported by the air tour operators for the period May 1997–April 1998.

The agencies' goal through this rulemaking is to prevent an increase in aircraft noise by limiting the number of commercial air tours. Concurrently with this NPRM, the FAA also is issuing a Notice of Availability to Routes which indicates certain modifications to aircraft routes through the SFRA and an NPRM modifying airspace in the SFRA. Additionally, the FAA is issuing a draft supplemental Environmental Assessment which assesses the environmental impact of the route modifications, the proposed commercial air tours limitation and the airspace modifications. The FAA also continues to work on the rulemaking initiated on December 31, 1996 proposing quiet technology aircraft. All of these steps are aimed at controlling or reducing the impact of aircraft noise in the GCNP.

In addition to preventing the noise situation from worsening, controlling the overall number of commercial air tours in the GCNP SFRA will facilitate the analysis of noise conditions in the GCNP and aid in the design of the noise management plan. Once the commercial air tour limitation and the new routes are implemented, the FAA and NPS will be better able to consider future noise mitigation strategies.

The proposed rule is premised on the National Park Service's noise evaluation methodology for Grand Canyon National Park, which was published in the **Federal Register** on January 26, 1999 (64 FR 3969). The NPS is reviewing comments submitted in response to that notice. If, on completion of that review, the NPS determines not to adopt the methodology described in the notice (such as the two-zone system and accompanying noise thresholds), the FAA will reevaluate the proposal and Draft Supplemental Environmental Assessment in light of whatever final action is taken by the NPS.

The Proposal

A. Overview

This NPRM would temporarily limit commercial air tours in the GCNP Special Flight Rules Area (SFRA) at the level reported to the FAA by the operators for the year May 1, 1997–April 30, 1998 (the base year), pending implementation of the Comprehensive Noise Management Plan (see discussion in III.B. below). During the implementation of this commercial air tour limitation, the FAA and the NPS would collect further information regarding commercial SFRA operations and aircraft noise in the GCNP. The NPS and the FAA would use the information collected during this time to determine whether the ''substantial restoration of natural quiet'' has been achieved at the GCNP. In the event that the agencies determine that the statutory goal is not met through the various noise mitigation techniques adopted, the FAA and NPS would need to take further steps to achieve the substantial restoration of natural quiet. This could mean that the commercial air tour limitation would become permanent and/or that commercial air tours would be further limited. This commercial air tour limitation would replace the current aircraft cap set forth in § 93.316(b).

In addition to the limitation on commercial air tours, this rulemaking would add a requirement for certificate holders to file a visual flight rules (VFR) flight plan to provide the FAA with a mechanism for monitoring and enforcing the limitation. This rule also would modify the current reporting requirements to require certificate holders authorized to conduct commercial air tours in the GCNP SFRA to report air tour and other flights that enter the SFRA. This data would be used to assess the noise situation in the GCNP and further develop the Comprehensive Noise Management Plan.

The NPRM also would make a number of non-substantive changes to Part 93, subpart U. These changes consist of the following: renumbering paragraphs; moving subparagraphs into new sections; and amending section headings. These changes are intended to make the rule easier to read and understand and to reflect the changes proposed herein.

B. Comprehensive Noise Management Plan

The Comprehensive Noise Management Plan (CNMP) is the overall process that the government would use to control and monitor noise conditions in the GCNP to achieve the statutory goal of substantial restoration of natural quiet. This plan is part of NPS' overall effort to reduce noise levels from all sources within the park, as called for in the NPS' 1995 General Management Plan.

As part of the CNMP, the FAA and NPS are working together to develop a noise management program that addresses noise from commercial air tour overflights. To ensure development of a flexible and adaptive approach to noise mitigation and management, this plan will, at a minimum do the following: (1) Address development of a reliable aircraft operations and noise database; (2) validate and document the most effective uses for FAA and NPS noise models in GCNP; (3) explore how the conversion to noise efficient/quiet technology aircraft can most effectively contribute to the substantial restoration of natural quiet while allowing for growth in the industry; and (4) determine how to provide operators with incentives to purchase noise efficient/quiet technology aircraft. In developing this plan, the FAA and NPS are committed to an open process that will provide for full public involvement and consultation with the public and affected Native American tribes.

As discussed above, the effective date for a portion of the 1996 final rule was delayed. Additionally, the NPRM for Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park has not been finalized. A noise management plan also has not been fully implemented yet. Work to date has primarily focused on developing a database of commercial air tours and developing a plan to improve noise modeling at the GCNP.

C. Definitions

Three new definitions would be added to current § 93.303 and would be applicable to part 93, subpart U. Definitions would be added for the terms ''allocation'', ''commercial air tour'' and ''commercial SFRA operation.'' Additionally, the paragraph designations would be removed to simplify administration of this section.

1. Allocation

The term ''allocation'' would be defined as the authorization to conduct a commercial air tour in the Grand Canyon National Park (GCNP) Special Flight Rules Area (SFRA). Each certificate holder reporting base year (May 1, 1997—April 30, 1998) air tours to the FAA would receive one allocation for each commercial air tour reported.

2. Commercial Air Tour

The term ''commercial air tour'' would be defined as any flight conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing. If the operator of a flight asserts that the flight is not a commercial air tour, the Administrator during an administrative review may consider a number of factors in determining whether the flight is actually a commercial air tour. Factors that the Administrator may consider include, but are not limited to—(1) Whether there was a holding out to the public of willingness to conduct a sightseeing flight for compensation or hire; (2) whether a narrative was provided that referred to areas or points of interest on the surface; (3) the area of operation; (4) the frequency of flights; (5) the route of flight; (6) the inclusion of sightseeing flights as part of any travel arrangement package; or (7) whether the flight or flights in question would or would not have been canceled based on poor visibility of the surface. The Administrator may give more weight to some factors than others in making this determination. This definitional change would be consistent with other rulemakings that the FAA is working on.

The current rules at 14 CFR, part 93, subpart U use the term ''commercial sightseeing flight'' at §§ 93.305 (Flight-free zones and flight-free corridors); 93.307 (Minimum flight altitudes); 93.315 (Commercial sightseeing flight operations); 93.316 (Commercial sightseeing limitations); and 93.317 (Commercial sightseeing flight reporting requirements). This NPRM would replace the term ''commercial sightseeing flight'' with the term ''commercial air tour'' throughout part 93, subpart U.

The proposed definition would clarify which flights are considered commercial air tours. The current rules do not define the term ''commercial sightseeing flight''. Instead, the FAA has assumed that flights operated on the Blue, Black and Green routes that are reported to the FAA under § 93.317 are commercial air tour flights with the following exceptions: (1) flights using the Blue Direct and Blue Direct South routes generally are presumed to be flights to reposition aircraft or transportation flights to move passengers from point A to point B; and (2) flights using the Green 3 route are operated under an FAA Form 7711–1, Certificate of Waiver or Authorization (Form 7711) issued by the Las Vegas Flight Standards District Office in support of Supai Village and the Havasupai Tribe. The FAA also believes that most flights operated on the Brown routes are operated under a Form 7711, typically in support of the Canyon's river rafting operations. On occasion, a commercial air tour may transition to a Brown route as part of a more extensive tour. There are only two east/west routes proposed that would be used for all types of commercial SFRA operations. Hence, because it will be more difficult to identify air tours based on the route flown, the FAA intends to define the term ''commercial air tour''.

3. Commercial SFRA Operations

Public Law 100–91 recognizes that noise associated with ''aircraft overflights'' at the GCNP is causing ''a significant adverse effect on the natural quiet and experience of the park.'' In order to improve noise management in the GCNP, the agencies believe it is necessary to impose some requirements on all flights conducted in the SFRA by air tour operators, regardless of whether an air tour is actually conducted on that flight. Therefore, the FAA proposes to adopt a new term to apply to all commercial operations conducted by certificate holders authorized to conduct commercial air tours and occurring within the GCNP SFRA.

The term ''Commercial Special Flight Rules Area Operation'' (Commercial SFRA Operation) would be defined as any portion of a flight within the GCNP SFRA that is conducted by a certificate holder that has operations specifications authorizing air tours within the GCNP SFRA. This term is broader than the term ''commercial air tour'' as it includes air tours as well as transportation, repositioning, maintenance, and training/proving flights. The types of flights covered by this term would be defined in the ''Las Vegas Flights Standards District Office Grand Canyon National Park Special Flight Rules Area Procedures Manual'' (see discussion at III.F re: definitions). The term ''commercial SFRA operations'' does not include supply and administrative flights conducted under contract with the Native Americans, or other flights conducted under a Form 7711. The FAA proposes to create this new term so that it can better account for the types of operations occurring within the park other than commercial air tours.

Examples 1 and 2 (below) illustrate the types of commercial SFRA operations and how air tours are defined.

Example 1. A commercial air tour operator conducts a commercial air tour through the GCNP SFRA from point A to point B, drops off passengers for a ground tour at point B and returns to point A without passengers. A subsequent aircraft completes a second tour from point A to point B and unloads its passengers at point B. The aircraft then picks up the passengers from the first tour, and returns them through the GCNP SFRA from point B to point A, completing the round trip air tour for these passengers. The initial trip by the first aircraft from point A to point B is a commercial air tour. The return trip of the first aircraft, without passengers, from point B to point A is a repositioning trip. The first trip of the second aircraft is a commercial air tour. The return trip of the second aircraft is a transportation trip because it moves passengers from point B to point A. The two commercial air tours each use one allocation. The other flights do not use allocations.

Example 2. A commercial air tour operator conducts a flight within the GCNP SFRA solely for the purpose of performing a flight check on a new pilot. During the flight, the aircraft develops mechanical problems and makes a precautionary landing. A second aircraft is dispatched with a pilot and mechanic to perform any necessary repairs. The first flight is a training flight. The second flight is a

maintenance flight. The return flights for both aircraft are repositioning flights. No allocations are used.

D. Requirements Specific to Commercial SFRA Operations

Section 93.315 would be reorganized and revised to remove the capacity limitation on aircraft and to delete the reference to the outdated SFAR 38–2. The current language only applies to aircraft having a passenger-seat configuration of 30 or fewer seats. The FAA believes that removal of the capacity restriction is necessary because it is aware that some air tour operators are beginning to use larger capacity aircraft. The FAA wants to ensure that each air tour operator, regardless of the capacity of aircraft, is held to the same operational and safety standards. This section would continue to require commercial air tour operators to be certificated under 14 CFR part 119 to operate in accordance with either 14 CFR part 121 or part 135 and to hold appropriate GCNP SFRA operations specifications.

Section 93.317 of the NPRM would maintain the current curfew hours in the Dragon and Zuni Point corridors (current § 93.316(a)). This curfew would now apply to commercial SFRA operations. Currently, the curfew applies to ''commercial sightseeing operations,'' which is an undefined term. The FAA believes that amending this curfew to include commercial SFRA operations would improve management of aircraft noise in the Dragon and Zuni Point corridors. With the removal of this language from § 93.316 to proposed § 93.317, § 93.316 would be removed and reserved.

Section 93.325 would require certificate holders conducting commercial air tours in the GCNP SFRA to report their commercial SFRA operations to the FAA on a quarterly basis. As discussed below, this reporting requirement is similar to that in current section 93.317 and would enable the government to assess more accurately the noise level and airspace use in the GCNP and further the development of the Comprehensive Noise Management Plan.

E. Operations Limitation

This NPRM would limit all commercial air tours in the GCNP SFRA on a twelve month basis to the number of air tours reported in accordance with current § 93.317 for the year May 1, 1997—April 30, 1998. This time period is being used as the basis for determining the allocations because it is the first twelve months for which the FAA has air tour data that has been fully compiled and analyzed. Proposed § 93.319 would establish this commercial air tour limitation. The number of commercial air tours that a certificate holder could conduct would be shown on the certificate holder's operations specifications as allocations.

The FAA is proposing that these allocations would remain unchanged by the FAA for a twenty-four month period from the effective date of this rule. After that time, all certificate holders' allocations may be revised based on the following: (1) Data submitted under proposed § 93.325; (2) updated noise analysis; and/or (3) the status of the Comprehensive Noise Management Plan. Any change in the overall allocations to all certificate holders would be subject to notice and comment rulemaking.

The FAA and NPS realize that commercial air tour operators need consistency to justify equipment investment and make other business plans. In devising the proposed two-year term for the allocations, the FAA considered two other alternatives including revising the allocations annually or on an ad hoc time basis thereafter. The FAA rejected both of these alternatives because it was concerned that neither alternative would achieve the proper balance between providing the certificate holders with the latitude necessary to conduct business, and controlling noise in the GCNP. The FAA solicits comments on this matter.

1. Initial Allocation

Under this NPRM, each commercial air tour would be represented by an allocation. Thus, each certificate holder that reported commercial air tours to the FAA in accordance with current § 93.317 for the base year would receive one allocation for each air tour. The total number of commercial air tours that were reported by all of the operators to the FAA for that base year was 88,000. This number does not include flights in support of air tour operations such as transportation flights, training flights, maintenance flights, and repositioning flights or flights conducted under a Form 7711.

To prevent a worsening of noise conditions in the park during the peak season, the FAA, in consultation with the NPS, proposes to establish a peak season cap that prevents the movement of allocations from off-peak season into the peak season. Peak season allocations, however, would be permitted to be used during the off-peak season as noise during the off-peak season generally is substantially less than during the peak season. The FAA proposes that the peak season be defined as the period from May 1–September 30; the off-peak season would be the period October 1–April 30. This peak/off-peak season definition is consistent with the summer and winter season for curfew purposes. Peak/off-peak allocations would be determined from the information reported to the FAA for the base year. There were 52,500 commercial air tours reported for May through September in the base year.

This restriction helps to eliminate the potential that noise would become worse during the peak season months because operators could maximize their allocation use during the time. Additionally, the restriction reduces the potential of an airspace congestion problem caused by an operator using all of its allocations during the peak season and shutting down its business during the off-peak season. This was deemed advisable after the FAA utilized its Airport and Airspace Simulation Computer Model (SIMMOD), which demonstrated significant use of the routes during the peak season.

In developing the peak/off-peak season distributions, the FAA and NPS considered three alternatives: (1) the proposed 5 month peak season (May–September); (2) a three month (July–September) peak season; and (3) a uniform year with no peak/off-peak delineation. The base year data indicates that the July–September time period is the most active period. A shorter peak, however, may limit the ability of the operators to maximize the use of their allocations since they would not be able to use peak season air tour allocations during the off-peak season. Consequently, the FAA requests comment specifically on the definition of peak/off-peak season.

Under the proposed rule, allocations also would be separated into those that may be used in the Dragon and Zuni Point corridors and those that may be used in the rest of the SFRA. Dragon and Zuni Point allocations again would be determined based on the number of air tours an operator conducted and reported in these corridors for the base year. Only operators who reported air tours in these corridors for the base year would receive allocations for these corridors. There were approximately 43,000 commercial air tours reported for the Dragon and Zuni Point corridors for the base year; approximately 29,500 of those tours were reported for the peak season.

The NPS and the FAA believe it is necessary to restrict allocations for the Dragon and Zuni Point corridors because the airspace is already

congested. The agencies believe that this restriction would help maintain the number of air tours in these corridors at a level that does not pose a congestion problem and that minimizes the likelihood that aircraft noise in this region of the park will increase.

The FAA believes the initial allocation phase would proceed in a manner similar to the example below:

Assuming the FAA adopts the 5-month proposed peak season. Throughout the base year, Operator A reported that half of its air tours each month were conducted in the Dragon and Zuni Point corridors. Operator B did not report any Dragon and Zuni Point air tours for the base year. The following information was reported to the FAA under current § 93.317 for theMay 1, 1997–April 30, 1998 time period:

EXAMPLE OF INITIAL ALLOCATIONS

	Operator A	Operator B
Reported operations		
Peak:		
May	75	50
June	150	100
Jul	300	250
Aug	300	200
Sep	200	100
Subtotal	1025	700
Off-Peak:		
Oct	75	25
Nov	25	.....
Dec	50	25
Jan	25	.....
Feb	.....	.....
Mar	.....	.....
Apr	50	25
Subtotal	225	75
Total	1250	775
Dragon/Zuni Point	625	None
Allocations		
Overall:		
Total	1250	775
Peak Season	1025	700
Dragon/Zuni Point:		
Total	625	None
Peak	513	None

2. Certificate Holders Receiving Allocations

The FAA is not reporting each certificate holder's individual allocation in this NPRM. Instead, this NPRM will identify those certificate holders who reported air tours to the FAA for the base year period and are scheduled to receive initial allocations to continue to conduct commercial air tours. These certificate holders are, in alphabetical order, as follows:

Air Bridge, Inc.; Air Grand Canyon, Inc.; Air Nevada Airlines, Inc.; Air Star Helicopters (includes Air Star Airlines); Aladdin Air Services, Inc.; AVI, Inc.; Aviation Ventures, Inc. (dba Vision Air); Bruce Adams (dba Southwest Safaris); Eagle Canyon Airlines; Grand Canyon Airlines; Heli USA Airways, Inc. (dba HeliUSA); Kenai Helicopters, Inc.; King Airlines, Inc.; Lake Meade Air, Inc; Las Vegas Airlines, Inc.; Las Vegas Helicopters, Inc.; Maverick Helicopters, Inc.; Papillon Airways, Inc. (includes Papillon Grand Canyon Helicopters); Scenic Airlines, Inc. (includes Las Vegas, Page and all other operations); Sundance Helicopters, Inc.; Temple Air Service, Inc.; Vista Airlines, Inc.; and Westwind Aviation, Inc.

Only certificate holders identified above are scheduled to receive an initial allocation under this rule.

Based on its additional research, the FAA believes that one certificate holder who reported air tours to the FAA during the base year period is no longer in business. Its allocation would be distributed among the remaining certificate holders, proportionate to the size of each certificate holder's allocation, unless the certificate holder listed below as not receiving allocations notifies the Manager, Air Transportation Division, AFS–200, Federal Aviation Administration, 800 Independence Ave., S.W. Washington, D.C. 20591. This written notification must be received on or before the NPRM comment deadline and indicate that the certificate holder intends to conduct commercial air tours in the GCNP SFRA and is authorized to do so. Thus, the following certificate holder will NOT receive an allocation UNLESS it notifies the FAA before the close of the comment period:

** Flagstaff Safe Flyers, Inc.

Certificate holders identified as receiving allocations to conduct air tours in the SFRA will receive a written notification by certified mail, return receipt requested, informing them of the following: (1) Total number of air tours allocated in the SFRA; (2) Number of air tours allocated in the Dragon and Zuni Point corridors; and (3) Peak season allocation for both the total SFRA and Dragon and Zuni Point corridors. This notification will be sent out concurrently with publication of this NPRM.

The FAA also will attempt to notify the certificate holder identified above as not receiving allocations via certified

mail, return receipt requested, directed to the last known business address.

3. Requesting Modification of Initial Allocation

The FAA recognizes that the air tour business in the GCNP is constantly changing. In fact, the FAA is aware that since the time period reflected in the base year data, some businesses have been bought and sold. Additionally, the FAA is aware that some operators have expanded their business into Las Vegas or modified the focus of their business to include some flights in the Dragon and Zuni Point corridors. Thus, due to mergers/acquisitions, bankruptcies, or other reasons that affect operations, certificate holders may believe that data they submitted for the base year does not reflect their current business. The FAA is striving to be fair in assessing the allocations. Therefore, it is permitting any certificate holder who believes that the base year data does not reflect its current operations as of the date of this notice to submit a written request to the Manager, Air Transportation Division requesting reassessment and indicating why the base year data is not an accurate representation. Such a request must be supported by written documentable evidence (i.e., contracts, leases, or other legal documentation). The FAA anticipates that any modifications will only result in redistribution of allocations among certificate holders affected by the merger or acquisition, etc., or within a certificate holder's allocation distribution (e.g., transfer of business operations prior to this NPRM into the Dragon or Zuni Point sector).

Certificate holders requesting modification of the initial allocation must submit the information described above in writing to Manager, Air Transportation Division, AFS–200, Federal Aviation Administration, 800 Independence Ave., SW Washington DC 20591. All requests for modification must be received on or before the comment deadline. Requests for modifications received after the comment deadline will not be considered. The Manager will review the information to determine whether the party has provided substantive, documentable evidence that the information relied on for the initial allocation is not an appropriate standard of measure. Any transfer of allocations due to prior mergers, acquisitions, etc. must be agreed to by all involved parties. The FAA will not consider increasing an initial allocation because of changes in consumer demand or the fact that the base year was not a busy year, operationally.

One example of how the above process would work is set forth below:

There are four certificate holders reporting commercial air tours in the GCNP SFRA, Operators A, B, C and D. In December, 1998 (post base-year) Operator A purchased all of Operators C's operations. Operator B reported no air tours in the Dragon and Zuni Point corridors for the base year but transferred 50% of its operations to the Dragon and Zuni Point corridors in November, 1998. Operator D has turned in its operations specifications.

Because all of these changes occurred post base year, they would not be reflected by the data used by the FAA to allocate air tours. Hence the certificate holders should do the following:

Operator A should submit a request to the Manager, Air Transportation Division to have its allocation re-assessed. It should provide copies of all documents relating to the purchase of Operator C's business operations and indicate how it believes the numbers should be reallocated. Operator A should also submit a statement from Operator C supporting the transfer. Operator B should submit a request to the Manager, Air Transportation Division requesting that its allocation be redistributed so that it receives an allocation for the Dragon and Zuni Point corridors. Operator B should submit any written evidence documenting its shifting of operations from one area of the GCNP to the Dragon and Zuni Point corridors. Operator C is no longer in business. Operator D's allocation would be retained by the FAA and be redistributed among all remaining operators.

F. Flight Plans

Proposed § 93.323 would require each certificate holder conducting a commercial SFRA operation to file an FAA visual flight rules (VFR) flight plan with an FAA Flight Service Station for each flight. Each flight segment (one take-off and one landing) would require a flight plan. Each certificate holder filing a VFR flight plan would be responsible for indicating in the ''remarks'' section of the flight plan the purpose of the flight. There would be at least five possible purposes: commercial air tour; transportation; repositioning; maintenance; and training/proving. The term ''commercial air tour'' would be as already defined in the proposed rule. The other five terms would be defined in the ''Las Vegas Flight Standards District Office Grand Canyon National Park Special Flight Rules Area Procedures Manual'' as follows:

1. Transportation—A flight transporting passengers for compensation or hire from point A to point B on a flight other than air tour.

2. Repositioning—A non-revenue flight for the purpose of repositioning the aircraft (e.g., a return flight without passengers after an air tour and that is conducted to reposition the aircraft for the next air tour).

3. Maintenance flight—A flight conducted under a special flight permit, or a support flight to transport necessary repair equipment or personnel to an aircraft that has a mechanical problem.

4. Training/proving—A flight taken for one of the following purposes: (1) Pilot training in the SFRA; (2) checking the pilot's qualifications to fly in the SFRA in accordance with FAA regulations; or (3) an aircraft proving flight conducted in accordance with section 121.163 or 135.145.

The information obtained from the flight plan would be used to ensure compliance with the commercial air tours limitation. Certificate holders may wish to develop ''canned'' flight plans that may be opened and closed quickly. Copies would not have to be maintained.

The FAA considered requiring certificate holders conducting commercial air tours to complete a form prior to each commercial air tour conducted in the GCNP SFRA. Under this proposal, a certificate holder identified as receiving an allocation would receive one form for each air tour reported for the base year. The forms would be serialized and carbonized. Prior to each commercial air tour, the certificate holder would complete the form with the required information, retain a copy of its files and keep a copy with the pilot. The information that would have been required would have been almost identical to the information required for the quarterly reporting at proposed § 93.325.

The FAA rejected the form alternative because it would impose burdensome reporting and recordkeeping requirements on the certificate holders. The FAA believes that the VFR flight plan requirement is less burdensome. At this time, the FAA believes that flight plan filing is a feasible approach.

G. Reporting

The reporting requirement currently contained in § 93.317 would be moved to proposed § 93.325 and expanded to cover certificate holders conducting transportation flights, repositioning flights, maintenance flights or training/proving flights in the GCNP SFRA. The information reported would be similar to that currently required by § 93.317.

Commercial SFRA operations can originate in one time zone and cross time zones so the FAA wants to ensure that the times reported are consistent. At this time, the FAA is proposing that time be shown in Universal Coordinated Time (UTC). The FAA seeks comment on whether UTC would be the appropriate time measurement or whether an alternative time zone (i.e., Mountain Standard Time) should be used.

The reporting required by proposed § 93.325 would be submitted to the Las Vegas Flight Standards District Office on a quarterly basis. Currently, certificate holders are required to report three times a year. A number of certificate holders, however, have commented to the FAA that quarterly filing would be preferred because the timing would be consistent with other government reporting requirements (IRS, Social Security, etc.). The information submitted on these quarterly reports would be used by the FAA and NPS to assess the noise situation in the GCNP and in development of the Comprehensive Noise Management Plan. Certificate holders would continue to submit the reports in written form. Electronic transmission (diskettes, email, etc.) is preferable and encouraged.

Certificate holders conducting flights in the SFRA under Form 7711 would not be required to report under § 93.325; however, the FAA is considering establishing such reporting as a condition of the waiver. This reporting would provide the agencies with a clearer picture of the types and numbers of flights operating in the SFRA. The FAA seeks comment on this matter.

H. Transfer and Termination of Allocations

Allocations to conduct commercial air tours in the GCNP SFRA would be an operating privilege granted to certificate holders who conducted and reported commercial air tours during the base year. As proposed, the allocations would be subject to reassessment after two years. Allocations to conduct commercial air tours in the GCNP SFRA would not be a property interest.

The FAA recognizes that air tour operators often utilize a variety of contracting/subcontracting methods to handle passenger loads during busy periods. Thus, the FAA proposes to allow an allocation to be transferred among certificate holders, subject to three restrictions. First, all certificate holders would be required to report any transfers to the Las Vegas Flight Standards District Office in writing. Permanent transfers (mergers/acquisitions, etc.) would require FAA approval through the modification of the operations specifications. Temporary transfers (seasonal leases, etc.) would be effective without FAA approval. The FAA would not modify the operations specifications for temporary arrangements. Second, all certificate holders would be subject to all other applicable requirements in the Federal Aviation Regulations. Third, allocation authorizing commercial air tours outside the Dragon and Zuni Point corridors would not be permitted to be transferred into the Dragon and Zuni Point corridors, however, could be used outside the Dragon and Zuni Point corridors. This restriction is necessary to ensure that flight within these corridors do not increase, thus, posing a potential safety and noise problem. A certificate holder may increase its peak season allocation outside the Dragon and Zuni Point corridors by transferring Dragon and Zuni Point allocations in the rest of the SFRA.

Examples of the interrelationship between the Dragon and Zuni Point restriction and the peak season restriction is as follows:

Example 1: Operator A has a total of 1250 GCNP SFRA allocations to operate in the SFRA, with 625 designated for the Dragon and Zuni Point corridors. The total peak season GCNP SFRA allocations for Operator A is 1025. The Dragon and Zuni Point peak season allocations are 513 (of the 1025 GCNP SFRA peak). The Operator may reallocate its Dragon and Zuni Point peak allocations in the peak season for the rest of the GCNP SFRA. It may also reallocate its Dragon and Zuni Point allocations to the off-peak season for use in the rest of the GCNP SFRA.

Example 2: Operator A has the same allocations as described in Example 1 above. Operator A, however, decides to lease for 1 year 100 peak season allocations for the Dragon and Zuni Point corridors to Operator B. Operator B has 50 peak season allocations designated on its operations specifications for these corridors. This is permitted since Operator A and Operator B both have current Dragon and Zuni Point allocations. Thus, Operator A's peak season allocations for these corridors decrease to 413 (513 − 100) for the length of the lease. Operator B's Dragon and Zuni Point Corridor peak season allocations increase to 150 (50+100) for the length of the lease.

Example 3: Operator A has the same allocations as described in Example 1 above. In year 1 Operator A experiences high consumer demand between January and April (off season) for the east/west routes (outside the Dragon and Zuni Point corridors). Therefore, Operator A decides to use 100 peak season allocations for the Dragon and Zuni Point corridors in the off-peak season to operate on the east/west routes outside these corridors. This reduces the amount of Dragon and Zuni Point allocations it can use during the peak season to 413 in year 1. In year 2, Operator A experiences a very slow off-peak season between the months of January and April and does not use all of its off-peak allocations. In the peak season, however, demand in the Dragon and Zuni Point corridors is high. Thus, Operator A can use all 513 of its peak season Dragon and Zuni Point allocations during this time.

Certificate holders who voluntarily cease conducting commercial air tours in the GCNP SFRA for any consecutive 180-day period would lose their allocations. This use or lose provision recognizes that the FAA is the sole controller of these allocations. If not used, the holder would lose its operating privilege and the FAA would then assert its control and decide whether to redistribute the allocations. The FAA considered proposing a time period shorter than 180 days, however, given the seasonal nature of the air tour business the FAA believes that a shorter time could be prejudicial against the certificate holders. The FAA believes that 180 days is a reasonable accommodation to the certificate holders and allows them the flexibility to manage their business. The FAA seeks comment on this matter.

The FAA also would retain the right to redistribute, reduce or revoke allocations based on the need to carry out its statutory mandate to regulate for efficiency of airspace or aviation safety. Additionally, the FAA could redistribute, reduce or revoke allocations if the certificate holder voluntarily surrendered the allocation or in the event of an involuntary cessation of business. (i.e., FAA shuts down an operator following an FAA enforcement action). This last factor likely would occur when the FAA enforced its regulations against a certificate holder to improve airspace efficiency or aviation safety.

I. Specific Matters for Comment

While the FAA seeks comment on all parts of the NPRM, there are a number of matters that it specifically would like commenters to address:

(1) Whether the FAA should use a 5 month peak season (May–Sept), a three month peak season (July–September), or no peak season for purposes of assigning allocations.

(2) Whether the time reported on the quarterly report should be expressed in Universal Coordinated Time (UCT), Mountain Standard Time, or another time measurement.

(3) Whether reporting should be imposed as a condition of a Form 7711 and, if so, whether the requirements of proposed § 93.325 would be appropriate for such operations.

(4) Whether 180 days is a proper measurement of time for the use or lose provision proposed in § 93.321.

(5) Whether the initial allocation reflects business operations as of the date of this notice.

(6) Whether the allocations should remain unchanged for any specific period of time.

Following a review of the comments and further consideration, the final rule may incorporate changes based on the above questions.

IV. Environmental Review

The FAA has prepared a draft environmental assessment (EA) for this proposed action to ensure conformance with the National Environmental Policy Act of 1969. Copies of the draft EA will be circulated to interested parties and a copy has been placed in the docket, where it will be available for review.

V. Regulatory Evaluation Summary

Changes to Federal Regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act requires agencies to analyze the economic effect of regulatory changes on small businesses and other small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. These analyses are summarized here in the preamble, and the full Regulatory Evaluation is in the docket.

Because of the continued high public interest surrounding GCNP regulations and the potential implications within a small locality, the FAA has determined that this Notice of Proposed Rulemaking (NPRM) would be ''a significant regulatory action'' as defined in the Executive Order and the Department of Transportation Regulatory Policies and Procedures. The FAA also has determined that this NPRM would have a significant economic impact on a substantial number of small entities (commercial air tour operators conducting flights within Grand Canyon National Park), and warrants an initial regulatory flexibility analysis (IRFA).

In conducting these analyses, the FAA has also determined that this proposed rule: (1) would not constitute a barrier to international trade; and (2) would not contain any Federal intergovernmental or private sector mandate.

A. Benefits

The primary intended benefit of this proposed rule is its contribution toward achieving the public mandate imposed by Public Law 100–91 to substantially restore natural quiet in the GCNP. This is one of three actions currently being taken by the FAA to move toward that goal. One of the other two actions is issuance of a notice of proposed rulemaking to make certain modifications of the airspace designations in GCNP. The other action is notification of modifications to air tour routes in the park. In addition to a discussion of restoration of natural quiet, a quantified analysis is given in this benefits section of the increased value that less aircraft noise may provide to ground visitor in the park. The FAA has estimated potential benefits two ways in this analysis. First, restoration of natural quiet is discussed. Second, a quantified estimate is made of the increased value of trips to the park by ground visitors if this proposal were implemented.

The FAA's benefits analysis is limited to commercial air tour aircraft noise, because only commercial air tours would be affected by this proposed rule. It is recognized that other aircraft operate in the vicinity of the Grand Canyon, either above the SFRA or along designated corridors (general aviation (GA)) through the SFRA. This noise has not been measured on included in the noise models used to obtain the estimates contained in this analysis because the FAA believes the amount of noise produced by these aircraft is very small compared to that of commercial all tour aircraft. GA traffic accounts for about 3 percent of all aircraft traffic in the GCNP according to the Las Vegas FSDO. The FAA does not believe that this amount of noise would affect the accuracy of its estimates. The FAA welcomes comments on this matter.

1. Restoration of Natural Quiet

The policy decision of GCNP is that a substantial restoration requires that 50% or more of the park achieve ''natural quiet'' (i.e., no aircraft audible) for 75–100 percent of the day. That level of ''quiet'' (50 percent) does not exist today in the park, in spite of past actions to limit noise. Based on noise modeling, the FAA estimates that today only about 32 percent of the park area has had natural quiet restored. Furthermore, if no additional action is taken estimated future air tour growth will reduce even that number to about 25 percent in nine to ten years. On the other hand, noise modeling indicates that this proposal, together with the other two FAA actions, would increase the restoration of natural quiet to slightly more than 41 percent and maintain that level in the future. The FAA will monitor future operations in the park to determine the actual level of natural quiet that is restored. It necessary, further actions will be taken to ultimately achieve the goal of substantial restoration of natural quiet.

2. Increased Value of Ground Visit Analysis

The benefits of noise reduction attributable to this rulemaking can be broadly categorized as use and non-use benefits. Use benefits are the benefits perceived by individuals from the direct use of a resource such as hiking, rafting, or sightseeing. Non-see benefits are the benefits perceived by individuals from merely knowing that a resource exists, or is perserved, in a given state. The act benefits of this rulemaking have been estimated and are presented below. The non-use benefits attributable to this rulemaking have not been estimated.

The available visitation data for GCNP permits the categorization of visitors into backcountry users, river users, and other visitors. The activities included in the ''other visitors'' category primarily involves sightseeing, as well as other activities such as hiking or camping not related to background or river use. The number of visitor-days (defined as one visitor to a location for all or any part of one day) in 1997 for these visitor groups is presented below.

NUMBER OF VISITOR-DAYS—GRAND CANYON NATIONAL PARK, 1997

Visitor group	Visitor-days
Backcountry	99,137
River	182,481
Other	5,788,187
Total	6,069,805

Source: National Park Service.

While the FAA, based on its projections on air traffic growth at the airports around GCNP, assumes that the number of air tours would increase at an annual rate of 3.3 percent, the FAA nevertheless, assumes that the number of visitor-days at GCNP would remain constant at 1997 levels throughout the evaluation period of this rulemaking. This assumption is considered to

reasonable because of the actions the NPS is taking to control visitor growth.

Permits for backcountry and river use are limited to a maximum number that can be issued each year. Also, the NPS plans to prevent cars from entering GCNP. Rim visitors will be required to park outside GCNP and take a shuttle into the Park. This will greatly reduce or possibly eliminate any future growth in the number of rim visitors. Last, an assumption of constant visitation is a conservative approach that would not bias the indicated net benefits of the rulemaking upward and would also probably results in benefits being somewhat underestimated.

The GCNP visitor survey indicates that these different visitor groups are variously affected by aircraft noise (HBRS, Inc. and Harris, Miller, Miller, & Hanson, Inc. 1993). This survey asked respondents to classify the interference of aircraft noise with their appreciation of the natural quiet of GCNP as either ''not at all,'' ''slightly,'' ''moderately,'' very much,'' or ''extremely.'' The percent of visitors indicating these impacts is presented below by visitor group.

VISITORS AFFECTED BY AIRCRAFT NOISE—GRAND CANYON NATIONAL PARK

Impact	Percent of visitors by category		
	Backcountry (percent) [a]	River (percent) [b]	Other (percent)
Not At All	41.0	45.5	76.0
Slightly	15.0	16.5	11.0
Moderately	13.5	10.0	4.0
Very Much	14.5	12.5	4.0
Extremely	16.0	15.5	5.0

[a] Average for summer and fall users.
[b] Average for motor and oar users.
Source: HBRS, Inc. and Harris, Miller, Miller, & Hanson, Inc. 1993.

The economic studies selected for use in the benefits transfer, and their indicated visitor-day values, are listed below. These values are also known as ''consumer surplus.'' Consumer surplus is the maximum amount an individual would be willing to pay to use a resource, minus the actual costs of use. It is a measure of the net economic benefit gained by individuals from participating in recreational activity.

ESTIMATED VISITOR-DAY VALUES (CONSUMER SURPLUS)—GRAND CANYON NATIONAL PARK

Visitor group	Study	Activity	Visitor-day value (1998 $)
Backcountry	Bergstrom and Cordell 1991	Backpacking (national survey)	$37.13
River	Bureau of Reclamation 1995	River use in Grand Canyon NP	92.44
Other	Haspel and Johnson 1982	Visit to Bryce Canyon NP	48.72

All values indexed to 1998 using the Consumer Price Index for all urban consumers.

The visitor-day value for backcountry use, $37.13, was derived from a national study of outdoor recreation (Bergstrom and Cordell 1991). That study estimated an average of $25.88 per visitor-day in consumer surplus for backpacking (1987). That value indexed to 1998 is $37.13 per visitor-day.

The visitor-day value for river use, $92.44, was derived from the economic analysis contained in the Final Environmental Impact Statement for Glen Canyon Dam operations (Bureau of Reclamation 1995). Originally, the value per visitor-day for river use was $77.24 in 1991. That value indexed to 1998 is $92.44 per visitor-day.

The visitor-day value for all other visitor uses in GCNP, $48.72, was derived from an economic analysis of recreation at Bryce Canyon National Park. The visitor uses addressed by that analysis were considered to closely match those included in the ''other visitors'' category for GCNP, primarily sightseeing. That analysis estimated two consumer surplus values, $71.00 and $62.00 per vehicle in 1980, using alternative techniques. The average of those two values, $66.50 per vehicle, was used in the present analysis. An average of 2.7 visitors per vehicle per vehicle for Bryce Canyon National Park was then used to convert that average to a visitor-day value, $24.63 ($66.50 per vehicle divided by 2.7 visitors per vehicle). That value indexed to 1998 is $48.72 per visitor-day.

The FAA assumed that these visitor-day values represent the net economic benefits obtained from recreational uses in GCNP absent any impacts from commercial air tour aircraft noise. Therefore, these values potentially under-state recreational benefits to the extent that the were estimated in conditions where aircraft noise was present.

There is no known economic study that estimates the reduction in the value of recreational uses due to commercial air tour aircraft noise for areas similar to GCNP. The reductions shown in the chart below were assumed in the present analysis.

ASSUMED REDUCTIONS IN VISITOR-DAY VALUES—GRAND CANYON NATIONAL PARK

Impact	Reduction (percent)
Slightly	20
Moderately	40
Very Much	60
Extremely	80

These data and assumptions imply the following total loss in value from aircraft noise in 1998. The total loss in value of $34.5 million was calculated as the product of the number of visitor-days, the proportion of visitors affected by aircraft noise, the visitor-day value, and the assumed proportional reduction in the visitor-day value, for respective impact levels and visitor categories.

ESTIMATED TOTAL LOST VALUE (CONSUMER SURPLUS) FROM AIRCRAFT NOISE—GRAND CANYON NATIONAL PARK, 1997

[In $ thousands]

Impact	Visitor category			
	Backcountry	River	Other	Total
Slightly	$110	$557	$6,204	$6,871
Moderate	199	675	4,512	5,386
Very Much	320	1,265	6,768	8,353
Extremely	471	2,092	11,280	13,843
Total	1,100	4,589	28,764	34,453

The benefit of this rulemaking is the reduction of the total lost value associated with the resulting lower future levels of noise from commercial air tour aircraft. Through aircraft noise modeling, FAA has predicted the number of square miles within GCNP that would be affected by various levels of aircraft noise, both with and without the commercial air tour limitation and change in routes. These noise levels were quantified by a nonlinear measure. The average linearized noise measure, weighted by the number of affected square miles, is presented below.

PREDICTED FUTURE NOISE REDUCTIONS IN GRAND CANYON NATIONAL PARK DUE TO THE COMMERCIAL AIR TOUR LIMITATION AND NEW ROUTES

Year	Weighted average linearized noise measure		Noise reduction due to the limitation and change (percent)
	Limitation and route change	No action	
1998	1,219.23	1,496.04	18.50
2000	1,219.23	1,577.47	22.71
2003	1,219.23	1,713.06	28.83
2008	1,219.23	1,943.88	37.28

These percentage reductions in commercial air tour aircraft noise were applied to the total lost consumer surplus value from aircraft noise in 1998 ($34.45 million) to estimate the current use benefits for future years. Linear interpolation was used to estimate levels of noise reduction for years of the evaluation period not shown in the table above. This calculation assumes that benefits increase linearly with noise reduction (i.e., a constant marginal benefit from noise reduction). A three percent discount rate was then applied to calculate the present value of use benefits (discounted to the year 1999) over the ten-year evaluation period. A three percent discount rate is supported by the economics literature for natural resource valuation (e.g., Freeman 1993). Federal rulemakings also support a three percent discount rate for lost natural resource use valuation (61 FR 453; 61 FR 20584). The resulting use benefit estimates are presented below.

ESTIMATED USE BENEFITS AT 3%—COMMERCIAL AIR TOUR LIMITATION GRAND CANYON NATIONAL PARK

[In $ millions]

Year	Estimated benefits	Present value
2000	$7.82	$7.60
2001	8.53	8.04
2002	9.23	8.45
2003	9.93	8.82
2004	10.51	9.09
2005	11.10	9.29
2006	11.68	9.50
2007	12.26	9.68
2008	12.83	9.84
2009	13.43	9.90
Total	107.32	90.29

It is important to recognize significant uncertainties in this estimation. One area of uncertainty relates to the percentage reductions in visitor-day values that can be attributed to commercial air tour aircraft noise. It was assumed above that there is a 20 percent reduction for visitors affected ''slightly,'' a 40 percent reduction for visitors affected ''moderately,'' a 60 percent reduction for visitors affected ''very much,'' and an 80 percent reduction for visitors affected ''extremely.'' In recognition of the uncertainty surrounding this assumption, one-half of these percentage reductions were used to calculate an alternative benefit estimate. Additionally, in recognition of the discount rate recommended in OMB Circular A–94, alternative benefit estimates were calculated using a seven percent discount rate. These alternative benefit estimates are presented below.

ALTERNATIVE ESTIMATES OF USE BENEFITS

[In $ millions]

Visitor-Day Value Reduction Assumption				Discount rate	
Slightly	Moderately	Very much	Extremely	3%	7%
Total Present Value Over the 10-Year Evaluation Period					
20%	40%	60%	80%	$90.29	$72.98
10%	20%	30%	40%	45.14	36.49
Total Present Value Over the Five-Year Evaluation Period					
20%	40%	60%	80%	42.00	37.37
10%	20%	30%	40%	21.00	18.67
Total Present Value Over the Two-Year Evaluation Period					
20%	40%	60%	80%	15.63	14.76
10%	20%	30%	40%	7.82	7.38

The use benefits discussed above assume that the commercial air tour limitation and the change in routes would occur at about the same time. The rule being analyzed, however, only limits commercial air tours. Hence, benefit estimates were calculated using the same methodology described above, but only applying the predicted noise reduction due to the commercial air tour limitation. These alternative benefit estimates are presented below.

ALTERNATIVE ESTIMATES OF USE BENEFITS

[In $ millions]

Visitor-Day Value Reduction Assumption				Discount rate	
Slightly	Moderately	Very much	Extremely	3%	7%
Total Present Value Over the 10-Year Evaluation Period Commercial Air Tour Limitation Only					
20%	40%	60%	80%	$44.05	$34.61
10%	20%	30%	40%	22.03	17.31
Total Present Value Over the Five-Year Evaluation Period Commercial Air Tour Limitation Only					
20%	40%	60%	80%	15.68	13.78
10%	20%	30%	40%	7.84	6.89
Total Present Value Over the Two-Year Evaluation Period Commercial Air Tour Limitation Only					
20%	40%	60%	80%	4.22	3.97
10%	20%	30%	40%	2.11	1.98

In addition to these use benefits, this rulemaking may generate significant no-use benefits. The FAA does not have adequate data to estimate the non-use benefits of aircraft noise reduction at GCNP. However, there are other studies that suggest potentially significant non-use benefits that might be attributed to this rulemaking. One such study was done for the Bureau of Reclamation regarding the operation of the Glen Canyon Dam (Hagler Bailly Consulting 1995). A national survey was conducted for this study, indicating significant non-use benefits for changes in Glen Canyon Dam operations. While the magnitude of non-use benefits estimated in that study are not directly applicable to this rulemaking, potentially significant non-use benefits associated with aircraft noise reduction are suggested.

B. Costs of Compliance and Initial Regulatory Flexibility Determination and Analysis

The proposed rule would impact all business entities conducting commercial air tours over the GCNP. Data collected for the base year period (May 1997 to April 1998) shows that there were 25 such entities (24 operators, one of whom operated as a fixed wing operator as well as a helicopter operator) at that time. This time period will be considered the baseline for the analysis. All of the entities are ''small'' as defined by the Small Business Administration (SBA). Since every air tour operator doing business in the GCNP would be significantly impacted and they all satisfy the definition of a ''small business'', the FAA concludes that there would be a significant economic impact on a substantial number of small entities. Consequently, the FAA has conducted this analysis of compliance costs to include an initial regulatory flexibility analysis as required by the Regulatory Flexibility Act.

The total cost of this rulemaking would largely depend on how commercial air tour operators respond to the changes. After reviewing a number of operating alternatives the FAA has concluded that the cost of the proposed regulation (e.g., five-month peak season) would be a reduction in net operating revenue of $177.6 million or $114.6 million discounted over the next ten years. There may be some additional cost associated with implementing the proposed alternative (i.e., activating, filing, and closing a flight plan). This is not expected to be

a significant cost but the FAA is unable to measure fully the cost impact at this time and requests public comment. For other provisions of the proposed rule ((1) requesting modification and initial allocations and (2) transfer and termination of allocations), the ten-year cost to air tour operators would be $30,000 or $23,000, discounted. Finally, the FAA costs over the next ten years (including initial allocations) would be $1,445,900 or $1,016,900 discounted. In sum, the total cost of this proposed rulemaking over the next ten years would be $179.1 million or $115.6 million, discounted.

1. Revenue Impact of Compliance Model

The main economic impact resulting from limiting commercial air tours in the GCNP SFRA is the reduction in projected net operating revenue. This number can be calculated by subtracting the net operating revenue associated with the projected future number of operations under the operations limitation from the net operating revenue associated with the projected future number of operations without the operations limitation.

The number of commercial air tours conducted during the May 1997–April 1998 base year period was used for determining the base number of air tours in this analysis. This information, by operator and by route, was provided to the FAA in accordance with current section 93.317 of Title 14, Code of Federal Regulations (14 CFR). Under the proposed rule, each air tour operator that conducted and reported an air tour during that period under existing section 93.317 would receive one allocation for each air tour reported.

A certificate holder's total allocations would be divided up into peak and off-peak season. The FAA proposes that the peak season be defined as the period from May 1–September 30; and the off-peak season would be the period October 1–April 30. This peak/off-peak definition coincides with the summer and winter season for curfew purposes. Peak/off-peak allocations would be based on the information reported to the FAA for the same time period during the base year.

Under the proposed rule, allocations also would be separated into those that may be used in the Dragon and Zuni Point corridors and those that may be used in the rest of the SFRA. Dragon and Zuni Point corridors allocations again would be based on the number of air tours an operator conducted and reported in those corridors during the base year period. Operators reporting no commercial air tours in these corridors during the base year period would receive no allocations for the Dragon and Zuni Point corridors.

The baseline number of passengers was estimated for each operator in this analysis in a four-step process using data provided from interviews and surveys of the affected air tour operators. First, the FAA determined how many aircraft and which aircraft, by route, were used in the base year time period. Second, the FAA identified the maximum number of passengers that each aircraft could legally carry. Next, the FAA determined the load factor for type of aircraft on each route by operator (in some cases, air tour operators were able to provide the FAA this estimate by time of year). After calculating the number of passengers for each route and for each type of aircraft, the FAA was able to sum this information and determine the baseline number of passengers. The FAA estimates the baseline number of passengers to be about 616,000.

The baseline gross operating revenue was calculated for each operator for each route in this analysis using data provided from published advertisements from air tour operators on the price of each type of air tour. The base period gross operating revenue by route was calculated by multiplying the estimated number of passengers that flew on a specific route for a specific operator by the published retail fare. No discounts are assumed.

Variable operating costs for GCNP air tour operators are defined as the costs for crews, fuel and oil, and maintenance per flight hour. The data by type of aircraft can be found on Table 4–20 of *Economic Values for Evaluation of Federal Aviation Administration Investment and Regulatory Programs* published by the Federal Aviation Administration, FAA–APO–98–8, June 1998. Estimates of the time taken to fly a particular route were obtained from air tour pilots and individuals in the Las Vegas Flight Standards District Office (FSDO). To calculate the variable operating cost for a particular route and type of aircraft, the FAA multiplied the hourly variable operating costs by the time to fly the particular route. In a few instances, the travel time was unavailable—the FAA estimated the time using information from other air tours and the time it took to complete those tours.

Baseline net operating revenue for each aircraft by route is the difference between the gross operating revenue for each route by aircraft and the variable operating costs for each route by aircraft. An air tour operator's total net operating revenue is the sum of the net operating revenues from all of the routes used by that air tour operator.

The FAA forecast rate of compound annual growth in the GCNP is estimated at 3.3 percent per year. This growth rate was derived from a composite of tower operations of four Las Vegas vicinity airports and those of Tusayan as reported in the 1994 Tower Activity Forecast (TAF). It represents different rates of growth at the West and East ends of the GCNP. The FAA estimated the future number of monthly operations without the proposed rule using projections as described above for each route by aircraft type and by operator.

The model does not take into consideration that air tour operators could switch from smaller-sized aircraft to larger-sized aircraft. Consequently, in this analysis, the number of available seats is fixed throughout the entire time period. Holding the number of seats constant and assuming that more individuals would want to take air tours in the future implies that air tour operators should be able to raise air tour prices. The model does not consider a new equilibrium price given that supply becomes fixed while demand increases. Consequently, this model assumes a worst case analysis.

2. Cost of Various Alternatives to Operators

a. Peak Season Limitations

The costs of the three operating scenarios considered in this rulemaking are discussed below. Each of the operating scenarios considers an alternative delineation of the annual commercial air tours against which the proposed operations limitation would be applied. The three alternatives are as follows: (1) The proposed 5-month peak season (May 1–September 30) with a 7-month off-peak season (October 1–April 30); (2) a uniform year; e.g., no peak/off-peak seasonal delineation; and (3) a 3-month peak season (July 1–September 30) with a 9-month off-peak season (October 1–June 30).

(1) The Proposed Five-Month Peak Season (May 1 to September 30)

The proposed rule would limit all commercial air tours in the GCNP SFRA on a 12-month basis to the number of air tours reported in accordance with current section 93.317 of 14 CFR for the twelve-month period from May 1, 1997 to April 30, 1998. Proposed section 93.319 of 14 CFR would establish this commercial tour limitation. The number of commercial air tours that a certificate holder could conduct would be shown

on the certificate holder's operations specifications as an allocation.

A certificate holder's total allocations would be divided up into peak season and off-peak season. Under the proposed rule, the peak season would be defined as the period from May 1 to September 30; the off-peak season would be the period October 1 to April 30. This peak/off-peak definition would coincide with the summer and winter season curfew purposes. Peak/off-peak allocations would be based on the information reported to the FAA for the time period during the base year period. Off-peak allocations could not be used during peak season; however, peak season allocations could be used during off-peak. Under the proposed rule, allocations also would be separated into those that may be used in the Dragon and Zuni Point corridors and those that may be used in the rest of the SFRA but not in the Dragon and Zuni Point corridors. Dragon and Zuni Point allocations again would be determined based on the number of commercial air tours an air tour operator reported in this region for the base year period. Operators reporting no commercial air tours in these corridors for the base year would receive no allocations for these corridors.

The FAA is proposing that these allocations would be valid for a two-year period. After that time, the certificate holder's allocations may be revised or removed based on the data submitted under proposed section 93.325; an updated noise analysis; and/or the status of the Comprehensive Noise Management Plan. In this analysis, the FAA assumed that this operation process would continue for ten years.

(2) A Uniform Year With No Peak/Off Peak Delineation

The first operating alternative to the proposed rule would limit all commercial air tours in the GCNP SFRA on a 12-month basis to the number of air tours reported in accordance with current section 93.317 for the year May 1, 1997 to April 30, 1998. As discussed under the proposed rule, the number of commercial air tours that a certificate holder could conduct would be shown on the certificate holder's operations specifications as an allocation. Air tour operators, under this alternative could compress all of their air tour allocations into the most active period should they desire. It is also assumed, as discussed under the proposed rule, that allocations would be separated into those that may be used in the Dragon and Zuni Point corridors and those that may be used in the rest of the SFRA.

It is assumed that these allocations would also be valid for a two-year period. After that time, the certificate holder's allocations may be revised based on the data submitted under proposed § 93.325; an updated noise analysis; and/or the status of the Comprehensive Noise Management Plan.

The FAA is not currently able to estimate how this alternative would impact net revenue differently than the proposed rule's impact on net revenue. Nevertheless, the FAA is aware that this alternative would allow an operator to shift air tour operations from the off-peak, winter season to the peak, summer season. The incentive to do this would be particularly strong if prices are higher during the peak, summer season or if aircraft have more passengers per flight, than during off-peak, winter season.

If prices are higher or aircraft are flown with more passengers per flight during the peak, summer season, an operator could reduce the proposed regulation's impact on its net revenues by shifting operations from the off-peak, winter season to the peak, summer season. Unfortunately, if the air tour operators were allowed to shift operations from the winter to the summer, then aircraft noise would also be shifted from the winter (when aircraft noise is less of a problem) to the summer (when aircraft noise is more a problem).

(3) A Three-Month Peak Season (July 1 to September 30)

Another operating alternative to the proposed rule would also limit all commercial air tours in the GCNP SFRA on a 12-month basis. Commercial air tours conducted by certificate holders in the SFRA would not exceed the amount of air tours reported in accordance with current section 93.317 for the year May 1, 1997 to April 30, 1998. As discussed under the previous alternative, the number of air tours that a certificate holder could conduct would be shown on the certificate holder's operations specifications as an allocation.

Under this alternative, as with the other alternatives, a certificate holder's total allocations would also be divided up into peak season and off-peak season.

Allocations also would be separated into those that may be used in the Dragon and Zuni Point corridors and those that may be used in the rest of the SFRA. Dragon and Zuni Point allocations again would be determined based on the number of air tours an operator reported in this region for the base year. Only operators who reported air tours in these corridors for the base year would receive allocations for these corridors.

It is assumed that these allocations would also be valid for a two-year period. After that time, the certificate holder's allocations may be revised based on the data submitted under proposed § 93.325; an updated noise analysis; and/or the status of the Comprehensive Noise Management Plan.

The FAA is not currently able to estimate how this three-month peak seasion alternative would impact net revenue in a different way than the proposed rule's impact on net revenue. Nevertheless, the FAA is aware that this alternative would allow an operator to shift commercial air tours from the off-peak winter season to May and June. The incentive to do this would be strong if prices are higher during May and June or if aircraft have more passengers per commercial air tour during May and June than during the off-peak, winter season. If prices are higher during May or June or if aircraft can be flown with more passengers per flight during these two months, then an operator could reduce the proposed regulation's impact on net revenue by shifting air tour allocations from the off-peak winter season to May and June. If commercial air tour operators were allowed to shift air tours from the winter to May and June, then aircraft noise would also be shifted from the winter (when there is less aircraft noise) to these two months.

b. Cost of Various Reporting Requirements Alternatives to Operators

The FAA considered two reporting requirement alternatives in the proposed rule. They are quarterly reporting and trimester reporting. The existing rule requires certificate holders to report three times annually. Since the existing rule already requires certificate holders to establish a system to implement the reporting requirement, there are assumed to be no start-up costs.

(1) Reporting on a Trimester Basis

It is assumed that the information for these reports is currently being updated throughout the entire timeframe. The total amount of time needed to update this information is a function of the number of aircraft maintained by each operator. The FAA assumes that it takes each operator about five minutes per aircraft per day regardless of the season to record the updated information into a master spreadsheet. The total cost of the existing rule in 1997 dollars for this task is $753.000 or $529,000 discounted over ten years at 7 percent. This is a

current requirement of the regulations (adopted in 1996) and these costs were previously accounted for in the regulatory evaluation prepared for the 1996 final rule.

The written information would have been provided to the Las Vegas FSDO three times per year. The FAA assumes that each operator would have to collate and verify the information that they had been collecting throughout the year. The time it takes to complete these two tasks would be two hours per operator regardless of the number of aircraft and assumes that the operators would have been recording the information throughout the year. The total cost to the industry of the existing rule is estimated at $34,000 for ten years or $24,000 discounted.

In sum, the FAA estimates that the cost associated with regular updating and trimester reporting for the existing rule is $787,000 or $552,000 discounted over ten years. The FAA is, however, proposing to replace the trimester reporting requirement with a quarterly reporting requirement.

(2) Reporting on a Quarterly Basis

As stated previously under the section on trimester reporting, it is assumed that updating is taking place throughout the entire timeframe. The total amount of time needed to update this information would be a function of the number of aircraft maintained by each operator. The FAA assumes that it would take each operator about five minutes per aircraft per day regardless of the season to record the updated information onto a master spreadsheet. The total cost in 1997 dollars absent the existing rule for this task would be $753,000 or $529,000 discounted over ten years at 7 percent.

Under this reporting requirement scenario, which is the proposed rule, the written information would have to be provided to the Las Vegas FSDO four times per year. The FAA assumes that each operator would have to collate and verify the information that they have been collecting throughout the year. The time it takes to complete these two tasks would be two hours per operator regardless of the number of aircraft and assumes that the operators would have been recording the information throughout the year. Given the wage rate of a Director of Operations at $22.50 per hour, the FAA estimates that this provision would cost each operator $180 per year ($22.50/hour × 2 hours × 4 times/year=$180 per operator; 200 hours/year to the industry, assuming the operator of the mixed fleet reports fixed-wing and helicopter tour business separately) absent the existing rule. The total cost to the industry is estimated at $45,000 for ten years or $31,600 discounted.

In sum, the FAA estimates that the cost associated with regular updating and quarterly reporting absent the existing rule would be $798,000 or $560,000, discounted over ten years.

The incremental cost of reporting three times annually versus four times annually is the difference in costs shown previously. The total incremental cost to industry of the proposed rule is estimated at $11,000 for ten years or $8,000 discounted. For the first year, the incremental costs are approximately $1,000. The two-year costs are estimated at $2,000. The five-year costs are estimated at $5,000 or $4,000 discounted.

Some commercial air tour operators stated that trimester reporting would be more burdensome than quarterly reporting because trimester reporting does not correspond with other business reporting requirements. However, because an additional fourth report would be required, quarterly reporting would be more costly.

c. Cost of Implementing the Rule

The FAA considered two means of monitoring the allocation usage—a form method and a flight plan method. The flight plan method is proposed in this rule. The following is a discussion of these two methods.

(1) Form Method

The form method would require certificate holders conducting commercial air tours in the Special Flight Rules Area (SFRA) to complete an SFRA Operation Form provided by the FAA prior to the beginning of each commercial SFRA operation. A commercial SFRA operation would consist of a point-to-point flight of the aircraft.

The FAA estimates that it would take about one minute for the certificate holder to complete each form because much of the information would have been pre-printed. Based on the previously noted operators' reports for the base year period, the FAA estimates that no more than approximately 88,000 commercial air tours would have to be reported annually. The FAA estimates that the total annual cost in 1997 dollars would be between $29,000 and $30,000 [$20.00/hour × 88,000 forms × 1 minute per form]/60 = $29,300/year; 1,467 hours per year to the industry) or about $27,400 discounted in the first year. The total cost would be $293,000 over ten years or $206,000, discounted. The two-year costs are estimated at $58,600 or $53,000 discounted. The five-year costs are estimated at $146,500 or $120,300 discounted.

(2) Flight Plan Method

Section 93.323 of the proposed rule would require each certificate holder of a commercial SFRA operation to file a visual flight rules (VFR) flight plan with an FAA flight Service Station for each flight. A flight consists of one take-off and one landing. The ''remarks'' section of the flight plan would be completed to indicate the purpose of the flight out of five designated purposes. These purposes would be: (1) commercial air tour; (2) transportation; (3) repositioning; (4) maintenance; and (5) training/proving. The information obtained from the flight plan would be used to ensure compliance with the commercial air tour limitation. Copies would not have to be maintained or carried on board by the certificate holder.

The extent to which an operator would be impacted by these costs would depend upon the volume of commercial air tour business in the GCNP and the number of aircraft and pilots providing air tour service. Additionally, the cost impact would be influenced by whether the operator conducts air tours daily on a regular frequency.

Relying on information from the Las Vegas flight Standards District Office (FSDO), the FAA has identified the following four principal areas where start up costs for the larger, more regularly scheduled operators would be incurred: (a) Creation of ''canned'' VFR flight plans (templates) to be filed with the Reno or Prescott Flight Service Station; (b) rewriting of existing General Operations Manuals to incorporate the new procedures; (c) set-up of a pilot training program; and (d) training of pilots. The FAA assumes each operator's Director of Operations (DO) would be responsible for the first three tasks and possibly the fourth, the instructing of the pilots in the new procedures.

The FAA estimates that the amount of time required of the DO to create and file a template with the Flight Service Stations (task 'a') is about 2 days. Task 'b' would require 2 days for part 121 operators and part 135 operators; and task 'c', the development of pilot instruction in VFR flight plan procedures would require 2 days. Finally, the FAA believes that the VFR flight plan procedures could be presented to the pilots currently conducting air tours in the Canyon through an operational bulletin. Presentation of the procedures to new hires would be part of an operator's on-going costs; the FAA assumes each

operator would incorporate this into the periodic review, modification, and update of plans as noted in the next section.

The FAA estimates that the total start-up costs to the Grand Canyon air tour operators for the VFR flight filing requirements would be about $22,320 or $20,850 discounted.

The VFR flight filing procedures requires the following sequence of activities: (1) Filing a flight plan; (2) activating the flight plan; and (3) closing the flight plan. The opening and closing of a flight plan would be the responsibility of the pilot-in-command and would be a part of normally assigned duties. This usually takes about one to five minutes.

The FAA is unable to accurately assess the variable or on-going costs of the VFR flight filing plan procedures at this time. Specifically, the FAA cannot precisely account for the costs incurred by opening and closing a flight plan, nor can the FAA accurately account for the costs each operator would typically incur in filing a flight plan. The FAA, therefore, requests public comment.

The FAA believes there would also be additional on-going requirements and costs imposed on the Las Vegas FSDO with proposed § 93.323. Coordinating and cross referencing the daily air tour activity recorded by the Flight Service Station with the operator reporting requirements, and monitoring the activity for potential enforcement action would add requirements to the Las Vegas FSDO's current mission that would task current staffing levels. Some of these activities (not enforcement) could be a part of the workload of a senior analyst/statistician assigned to manage the reporting requirements.

d. Cost of Other Provisions to Operators

Operators would incur costs associated with (1) requesting modification to initial allocations and (2) transfer of allocations. The FAA estimates that the cost of these provisions could be up to $20,000 or $14,000 discounted over ten years. The following is a discussion of the costs associated with these two provisions.

(1) Requesting Modification to Initial Allocations

The FAA recognizes that the air tour business in the GCNP is constantly changing. Due to mergers/acquisitions, bankruptcies, etc., certificate holders may believe that the data submitted for May 1997 to April 1998 does not reflect their current business operations. Therefore, the FAA would permit any certificate holder who believes that the base year data does not reflect its current business operation to submit a written request to the Manager, Air Transportation Division that its allocation be reassessed. The request should explain why the base year reported data does not properly reflect its current operations. The operator must provide supporting documentation.

The FAA estimates that as many as five operators may request modifications to their initial allocations. The FAA estimates that each operator would incur one-time costs of between $500 and $1,000 to complete and provide the required information to the FAA. Therefore the one-time cost to the industry would be between $2,500 and $5,000 or between $2,300 and $4,700, discounted. The FAA requests information from affected air tour operators on the validity of this estimate.

(2) Transfer of Allocations

Allocations to conduct air tours in the GCNP SFRA would be considered an operating privilege initially granted to certificate holders, who conducted commercial air tours during the base year and reported them to the FAA. As proposed, the allocation would be subject to reassessment no earlier than two years after the effective date of the rule. The FAA recognizes that air tour operators often utilize a variety of contracting/subcontracting methods to handle passenger loads during busy periods. Thus, the FAA proposes to allow allocations to be transferred among certificate holders, subject to several restrictions.

Under the proposed rule a certificate holder would be required to report any transfer of allocations to the Las Vegas FSDO in writing.

The FAA distinguishes between temporary and permanent transfers of allocations. In the former case, the FAA recognizes the current business practice of air tour operators to occasionally sell, exchange or otherwise transfer air tour bookings (usually to an overflow operator) to accommodate unexpected surges in demand.

Temporary transfers would not require FAA approval, nor would the FAA modify the involved operators' operations specifications. The FAA assumes any operator costs associated with temporary transfers to be part of the on-going business cost of conducting air tours of the Grand Canyon. The FAA also assumes any costs associated with notifying the Las Vegas FSDO of such temporary transfers would be de minimus. Similarly, FAA costs associated with the processing of these written notices concerning temporary transfers would be de minimus.

Permanent transfers of allocations resulting from mergers/acquisitions, bankruptcies, etc. would require FAA approval through the modification of the operations specifications in addition to the required reporting to the Las Vegas FSDO in writing. The FAA cannot predict how many such permanent transfers might occur or estimate associated costs. The FAA, however, is aware of two acquisitions that occurred during the base period and offers the following example of what costs might result if no more than two operators were to submit requests for permanent transfers of allocations to the FAA annually. The FAA requests operator comment regarding the likely costs of a permanent transfer.

If each operator would incur costs of between $500 and $1,000 (which includes two days effort per operator) to complete and provide the required information to the FAA, then the annual cost to the industry would be between $1,000 and $2,000 annually (about 32 hours annually) or between $900 and $1,900 discounted. The cost over 10 years would be between $10,000 and $20,000 or between $7,000 and $14,000, discounted. The two-year costs are estimated at between $2,000 and $4,000 or between $1,800 and $3,600 discounted. The five-year costs are estimated at between $5,000 and $10,000 or between $4,100 and $8,200, discounted.

3. Cost of Proposed Rule to the FAA

The FAA, as a result of this proposed rule, would incur costs in four ways. The FAA would incur costs associated with the initial allocation, recording and tracking, filing of flight plans, and transfer of allocations. Over the next ten years, FAA costs are expected to be $1,445,900 or $1,016,900, discounted. The following is a discussion of these cost components.

a. Initial allocation, and recording and tracking

The FAA would need to develop an allocation process and prepare the necessary information to send to each air tour operator. This one time administrative work would require analyst, clerk, legal and management resources. The FAA estimates that this would result in an agency cost of $3,700 in the first year only. The discounted cost is $3,500.

In addition, the FAA would incur recurring annual costs from the recording and tracking of the information provided by the operators. Again, this would require analyst, clerk,

management and legal resources. For the purpose of this cost assessment, the FAA assumes that one additional agency employee would be required at the GS–14 grade level. Based on FAA resources required to record and track data provided by operators since 1997, the agency estimates that the total cost for the FAA of these elements would be about $138,000 annually or $1,379,000 over ten years ($968,587, discounted).

b. Transfer of Allocations

The FAA estimates that on average it would spend about 80 hours managing each transfer of allocations or 160 hours annually assuming two permanent transfers. Based upon the salary of a GS–13 employee of $39.50/hour, the FAA estimates that cost would be about $6,300 annually, $63,200 over ten years or $44,400, discounted.

In sum, the FAA would incur costs associated with the initial allocation, tracking and monitoring, filing a flight plan, and transfer and termination of allocations. Over the next ten years, FAA costs are expected to be $1,445,900 or $1,016,900, discounted.

C. Summary of Benefits and Costs

Public Law 100–91 was adopted to substantially restore natural quiet and experience in Grand Canyon National Park. The primary intended benefit of this proposed rule is its contribution toward restoring natural quiet and experience in Grand Canyon National Park. The estimated 10-year use benefits (benefits derived from hiking, rafting, or sightseeing) as a result of this proposed rule and the other two accompanying proposed rules would be about $73 million, discounted at seven percent over ten years (about $35 million if this proposed rule is adopted alone). The FAA does not have adequate data to estimate the non-use benefits of aircraft noise reduction at GCNP, but believes this rulmaking may generate significant non-use benefits. Studies cited in the Regulatory Evaluation suggest potentially significant non-use benefits associated with aircraft noise reduction in GCNP as a result of this rulemaking.

The estimated 10-year cost of this proposed regulation would be $179.1 million or $115.6 million discounted. The majority of the costs of this proposed regulation, would be $177.6 million, ($114.6 million, discounted) in projected lost revenue (net of variable operating costs). The estimated 10-year cost of the other provisions to air tour operators which includes (1) reporting four times annually, (2) filing of flight plans, (3) transfer of allocations and (4) requesting modifications and initial allocations is $30,000, or $23,000 discounted. FAA costs include those associated with initial allocations, annual recording and tracking, and transfer of allocations. These FAA costs are estimated at $1,445,900 or $1,016,900, discounted.

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities (small business and small not-for-profit government jurisdictions) are not unnecessarily and disproportionately burdened by Federal regulations. The RFA, which was amended March 1996, requires regulatory agencies to review rules to determine if they have ''a significant economic impact on a substantial number of small entities,'' FAA's interim regulatory flexibility policy and guidelines establish threshold costs and small entity size standards for complying with RFA requirements. This guidance defines small entities in terms of size thresholds, significant economic impact in terms of annualized cost thresholds, and substantial number as a number which is not less than eleven and which is more than one-third of the small entities subject to the proposed or final rule.

The Small Business Administration defines small entities to be those airlines with 1,500 or fewer employees for the air transportation industry. For this proposed rule, the small entity group is considered to be operators conducting commercial air tours in the GCNP and having 1,500 or fewer employees. The FAA has identified a total or 25 such entities (24 operators, one of whom operated as a fixed-wing operator as well as a helicopter operator) that meet this definition.

The FAA has estimated the annualized cost impact on each of these 25 small entities potentially impacted by the proposed rule. The proposed rule is expected to impose an estimated total cost of $177.6 million or $114.6 million, discounted over the next 10 years. The annualized cost over ten years is estimated at about $25.5 million for all of the affected entities. The FAA has determined that the proposal would have a significant impact on a substantial number of small entities, and has performed on initial regulatory flexibility analysis. All 25 small entities would incur an economically significant impact.

Under Section 603(b) of the RFA (as amended), each initial regulatory flexibility analysis is required to address these points: (1) reasons why the FAA is considering the proposed rule, (2) the objectives and legal basis for the proposed rule, (3) the kind and number of small entities to which the proposed rule would apply, (4) the reporting, and other compliance requirements of the proposed rule, and (5) all Federal rules that may duplicate, overlap, or conflict with the proposed rule.

1. Reasons Why the FAA Is Considering the Proposed Rule

Public Law 100–91 recognizes that noise associated with ''aircraft overflights'' at the GCNP is causing ''a significant adverse effect on the natural quiet and experience of the park.'' This legislation directed the FAA and NPS to work together to achieve substantial restoration of natural quiet in the GCNP. In order to stabilize noise levels in the SFRA while further noise analysis is conducted, the FAA and NPS believe it is necessary to impose a commercial air tour limitation.

2. The Objectives and Legal Basis for the Proposed Rule

The objective of the proposed rule is to limit commercial air tours in the GCNP SFRA. Commercial air tours conducted by certificate holders in the SFRA are not to exceed the amount of air tours reported in accordance with current section 93.317 for the period from May 1, 1997 through April 30, 1998.

The legal basis for the proposed rule is found in Public Law 100–91, commonly known as the National parks Overflights Act. Public Law 100–91 stated in part, that ''noise associated with aircraft overflights at GCNP [was] causing a significant adverse effect on the natural quiet and experience of the park and current aircraft operations at the Grand Canyon National Park has raised serious concerns regarding public safety, including concerns regarding the safety of park users.'' Further congressional direction is discussed in the history section of the full regulatory evaluation.

3. The Kind and Number of Small Entities to Which the Proposed Rule Would Apply

The proposed rule applies to 24 potentially affected part 135 and 121 commercial air tour operators, each having 1500 or fewer employees. The FAA estimates that all 24 of these operators (25 entities) would be impacted by the proposal.

4. The Projected Reporting and Other Compliance Requirements of the Proposed Rule

Each of the 24 operators affected by this proposal would need to comply with certain reporting and

recordkeeping requirements. Certificate holders conducting commercial air tours in the GCNP SFRA would complete a flight plan for each flight. The FAA estimates this compliance effort would occur at the beginning of a flight and would impose an additional one to five minutes on the part of the certificate holder per operation for each of the 25 small entities during each year of compliance, for a total of 10,956 hours annually. This estimate is limited to compliance associated with commercial air tours.

Certificate holders conducting commercial air tours would need to report quarterly to the FAA certain information on the total operations conducted in the GCNP SFRA to the FAA. The FAA estimates that this compliance effort would take place four times per year (one additional time compared to the existing rule) and would impose an additional 50 hours of labor on the industry annually. This provision would cause an operator, regardless of the number of aircraft, to expend an additional two hours of labor annually (including record maintenance).

The initial assigned allocation could involve operator requests for modifications in some instances that the FAA estimates would impose about 80 hours total the first year on five operators. The FAA estimates that the paperwork burden to each of these operators would be about 16 hours (see earlier discussion).

Finally, the FAA expects that two operators would enter the industry and would leave the industry through mergers, acquisitions or bankruptcies. The FAA estimates that two operators would spend about 32 hours annually.

Excluding the provisions that impose a one-time burden (initial allocations would affect five operators the first year annually; 80 hours total), each certificate holder would have imposed an additional annual reporting burden on average of 581 hours of labor. This estimate, however, is highly dependent upon how many aircraft and how many operations the certificate holder flies per year. For a period of 10 years, a total of approximately 143,750 hours would be spent.

5. All Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

The FAA is unaware of any federal rules that either duplicate, overlap, or conflict with the proposed rule. The FAA welcomes comment on this.

6. Affordability Analysis

For the purpose of this Initial Regulatory Flexibility Analysis, an affordability analysis is an assessment of the ability of small entities to meet costs imposed by the proposed rule. There are two types of costs imposed by the rule—(1) out-of-pocket costs (actual expenditures) associated with certain documentation and (2) loss of potential future operating revenue above current levels associated with a freeze in the level of operations. This latter burden may be significant to financial viability for companies that depend on growth in operating revenue to provide cash needed to meet long-term obligations such as equipment purchase loans.

An operator's short-run financial strength is substantially influenced, among other things, by its working capital position and its ability to pay short-term liabilities. Unfortunately, data is not available on the amount of working capital that these operators have to finance changes in short term costs.

There is an alternative perspective to the assessment of affordability based on working capital of the proposed rule. The alternative perspective pertains to the size of the annualized costs of the proposed rule relative to annual revenues. The lower the relative importance of those costs, the greater the likelihood of implementing either offsetting cost saving efficiencies or raising fares to cover increased costs without substantially decreasing passengers.

This analysis assesses affordability by examining the annualized cost of compliance relative to an estimate of total Grand Crayon commercial air tour operating revenues for each of the 25 small entities. (Note: There are 24 operators covered by this rule, but one operator conducts helicopter operations under one business entity and airplane operations under another separate business entity.) The annualized change in net operating revenues corresponds to foregoing the anticipated three percent per year growth of undiscounted net operating revenues. This number is relatively constant across all air tour operators because the majority of the negative impact (lost revenues) imposed by this rulemaking is directly related to the number of air tours that are being conducted. For these operators, there may be some prospect of absorbing the cost of the proposed rule through fare increases (especially since the cost model does not account for increasing demand with a fixed supply).

It appears that given the current state of the industry, changes in net operating revenues may be offset by increased prices. The limit on air tours would restrict the future supply of Grand Canyon air tours while demand for air tours is expected to increase. No clear conclusion can be drawn with regard to the abilities for small entities to afford the reductions in net operating revenues that would be imposed by this NPRM because the FAA is not able at this time to estimate the amount of revenue increase obtained through price increases. The FAA requests small entities to provide better information supporting this assertion or any alternative.

7. Disproportionality Analysis

The FAA does not believe that reporting requirements imposed by the proposed rule would disadvantage any of the 25 small entities relative to large operators because there are no affected large operators.

The smallest operators are expected to incur some higher costs relative to their size than larger operators do. This is because while all operators have periodic reporting requirements, the smallest operators would not be able to spread their reporting costs across as many operations as the larger operators. Consequently, the periodic reporting requirements would be proportionately greater for the smallest operators compared to the other small operators. However, these reporting costs are a relatively small portion of the economic impact of this rulemaking. As a result this cost disadvantage to the small operators is not expected to be significant.

8. Competitiveness Analysis

All air tour operators currently operating in the GCNP are small entities. All these operators would be proportionately impacted by the commercial air tour limitation provision of this rulemaking (the limitation has the greatest impact of all provisions of this rulemaking). The small operators would not be put at a disadvantage relative to the larger operators as a result of this provision. There are some paperwork costs that impact each operator equall, regardless of size. In this case the larger operators could have an advantage over the smaller operators since the larger operators could spread these costs among more passengers. However, these particular paperwork costs are small and any relative advantage that the larger operators could have as a result of the paperwork cost would be insignificant.

This proposed rulemaking has one feature that impacts competitiveness. The operation limitation would protect established operators from competition from wholly new entrants. Under this proposed rule, a new entrant could conduct commercial air tours in the GCNP SFRA only if it were able to purchase allocations from another operator and satisfy all other requirements of the Federal Aviation Regulations. Thus, the potential maximum number of air tours conducted in the GCNP SFRA would not change.

The FAA solicits comments on this matter. Specifically, commenters are asked to provide information on the impact this proposed rule would have on the continued ability of small airlines to compete in the existing market. The FAA requests that supporting data on markets and cost be provided with the comments.

D. Summary of Costs of Compliance

The estimated 10-year cost of the proposed regulation, which divides the year into a five-month peak season and a seven-month off-peak season would be $177.6 million, ($114.6 million, discounted) in lost revenue (net of variable operating costs). The estimated 10-year cost of the non-operators alternatives which includes (1) Reporting four times annually, (2) filing of flight plans, (3) transfer of allocations and (4) requesting modifications to initial allocations is $30,000, or $23,000 discounted. In sum, the estimated 10-year cost to air tour operators as a result of this proposed rule would be $178.4 million or $115.2 million, discounted.

FAA costs include those associated with initial allocations, annual recording and tracking, transfer and terminations of allocations, and filing of flight plans. These FAA costs are estimated at $1,445,900 or $1,016,900, discounted. In sum, the FAA estimates that the 10-year cost of this proposed rule would be $179.1 million or $115.6 million discounted.

E. International Trade Impact Assessment

The FAA has determined that the rulemaking would not affect non-U.S. operators of foreign aircraft operating outside the United States nor affect U.S. trade. It could, however, have an impact on commercial air tours at the GCNP, much of which includes foreign tourists.

The United States Air Tour Association estimates that 60 percent of all commercial air passengers in the United States are foreign nationals. The Las Vegas FSDO and some operators, however, believe this estimate to be considerably higher at the Grand Canyon, perhaps as high as 90 percent. To the extent the proposed operational limitation rulemaking dampens foreign visitor demand for commercial air tours of the Grand Canyon, the commercial air tour industry could potentially experience an additional loss of revenue beyond what is expected as a result of the operations limitation.

The FAA is unable to determine the loss of commercial air tour revenue that might result from lowered foreign demand for commercial air tours at GCNP for reasons unrelated to this proposed rulemaking.

F. Unfunded Mandates Assessment

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 extend permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure of $100 million or more (when adjusted annually for inflation) in any one year by State, local, and tribal governments in the aggregate, or by the private sector. Section 204(a) of the Act, 2 U.S.C. 1532(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 would 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 Act, 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, which, among other things, must provide for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity for these small governments to provide input in the development of regulatory proposals.

This proposed rule does not contain any Federal intergovernmental or private sector mandates. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

VI. Federalism Implications

This proposed rule would not have substantial 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 proposed rule would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

VII. Paperwork Reduction Act

This proposal contains the following new information collection requirements subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. § 3507(d)).

Proposed § 93.321 would require each operator that receives an allocation from another operator to report the transfer in writing to the Las Vegas Flight Standards District Office before the transferee may use the allocation. Temporary transfers would require FAA notification but no FAA approval. Permanent transfers (mergers, acquisitions, etc.) would require FAA notification and FAA approval. The FAA estimates that the cost of the paperwork burden associated with initial allocations would be $450 (a one-time cost during the first year only). The FAA estimates that there would be approximately two permanent transfers per year at a total cost per year of $720.

Proposed § 93.323 would require each of the affected commercial air tour operators to file a visual flight rules (VFR) flight plan for each flight and list the purpose of the flight in the ''remarks'' section. There would be no requirement for the operator to keep a copy of the flight plan nor for the pilot to carry a copy of the flight plan during flight. The flight plan could be ''canned'' so that it would be on file and could be activated easily. Computations assume that all air tour operators would use ''canned'' flight plans. Opening and closing flight plans would be part of the normal duties of a pilot, a dispatcher, or other person designated by the certificate holder. The FAA estimates that filing of flight plans with an FAA Flight Service Station and activation of these flight plans for each flight would require 368 hours per year at a cost of $8,280.

Proposed § 93.325 would require each operator to report to the FAA on a quarterly basis. This would increase the existing reporting requirement by one report per year. It would also add the make and model of aircraft and further divides flights into segments based on departure airports. The previous requirement (93.317) was only for sightseeing flights. The proposed rule would require all flights in the Special

flight Rules Area, which includes transportation flights, repositioning flights, maintenance ferries, and training/proving flights. The quarterly aspect of reporting is at the operators' request. Existing § 93.317 requires reporting three times per year. The operators expressed a preference for quarterly reporting as this more closely matches how they do business and report to other government entities. The FAA estimates that this additional burden will require 46 hours per year at a cost of $1,035 for all operators.

The total estimated annual cost of the paperwork burden for the proposed rule is $10,485.

The agency is soliciting comments 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; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other techological collection techniques or other forms of information technology (for example, permitting electronic submission of responses). Individuals and organizations may submit comments on the information collection requirement by September 7, 1999, to the address listed in the **ADDRESSES** section of this document.

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 Office of Management and Budget (OMB) control number. The public will be notified of the OMB control number when it is assigned.

List of Subjects

14 CFR Part 93

Air traffic control, Airports, Navigation (Air), Reporting and Recordkeeping requirements.

The Proposed Amendment

For the reasons set forth above, the Federal Aviation Administration proposes to amend part 93, chapter 1 of title 14, Code of Federal Regulations, as follows:

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

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

Authority: 49 U.S.C. 106(g), 40103, 40106, 40109, 40113, 44502, 44514, 44701, 44719, 46301.

2. Section 93.303 is revised to read as follows:

§ 93.303 Definitions.

For the purposes of this subpart:

Allocation means authorization to conduct a commercial air tour in the Grand Canyon National Park (GCNP) Special Flight Rules Area (SFRA).

Commercial air tour means any flight conducted for compensation or hire in a powered aircraft where a purpose of the flight is sightseeing. If the operator of a flight asserts that the flight is not a commercial air tour, factors that can be considered by the Administrator in making a determination of whether the flight is a commercial air tour include, but are not limited to—

(1) Whether there was a holding out to the public of willingness to conduct a sightseeing flight for compensation or hire;

(2) Whether a narrative was provided that referred to areas or points of interest on the surface;

(3) The area of operation;

(4) The frequency of flights;

(5) The route of flight;

(6) The inclusion of sightseeing flights as part of any travel arrangement package; or

(7) Whether the flight in question would or would not have been canceled based on poor visibility of the surface.

Commercial SFRA Operation means any portion of any flight within the GCNP SFRA that is conducted by a certificate holder that has operations specifications authorizing air tours within the GCNP SFRA. This term does not include operations conducted under an FAA Form 7711–1, Certificate of Waiver or Authorization. The types of flights covered by this definition are set forth in the ''Las Vegas Flight Standards District Office Grand Canyon National Park Special Flight Rules Area Procedures Manual'' available from the Las Vegas Flight Standards District Office.

Flight Standards District Office means the FAA Flight Standards District Office with jurisdiction for the geographical area containing the Grand Canyon.

Park means Grand Canyon National Park.

Special Flight Rules Area means the Grand Canyon National Park Special Flight Rules Area.

3. Section 93.305 is amended by revising the last sentence in paragraph (a) and in paragraph (b) to read as follows (Note: The instructions in this amendment refer to § 93.305 as it currently exists. But if adopted, these changes would be made in addition to the changes in Notice No. 99–11 published elsewhere in this issue):

§ 93.305 Flight-free zones and flight corridors.

* * * * *

(a) * * *

(a) * * * This corridor is 2 nautical miles wide for commercial air tour flights and 4 nautical miles wide for transient and general aviation operations.

(b) * * * This corridor is 2 nautical miles wide for commercial air tour flights and 4 nautical miles wide for transient and general aviation operations.

* * * * *

4. Section 93.307 is amended by revising the headings of paragraphs (a)(1) and (b)(1) to read as follows:

§ 93.307 Minimum flight altitudes.

* * * * *

(a) * * *

(1) *Commercial air tours—*

* * * * *

(b) * * *

(1) *Commercial air tours—*

* * * * *

5. Section 93.315 is revised to read as follows:

93.315 Requirements for Commercial Special Flight Rules Area operations.

Each person conducting commercial Special Flight Rules Area operations must be certificated in accordance with Part 119 for Part 135 or 121 operations and hold appropriate Grand Canyon National Park Special Flight Rules Area operations specifications.

§ 93.316 [Removed and reserved]

6. Section 93.316 is removed and reserved.

7. Section 93.317 is revised to read as follows:

§ 93.317 Commercial Special Flight Rules Area operation curfew.

Unless otherwise authorized by the Flight Standards District Office, no person may conduct a commercial Special Flight Rules Area operation in the Dragon and Zuni Point corridors during the following flight-free periods:

(a) Summer season (May 1–September 30)—6 p.m. to 8 a.m. daily; and

(b) Winter season (October 1–April 30)—5 p.m. to 9 a.m. daily.

8. Section 93.319 is added to read as follows:

§ 93.319 Commercial air tour limitations.

(a) No certificate holder certificated in accordance with part 119 for part 121 or 135 operations may conduct more commercial air tours in any calendar

year than the number of allocations specified on the certificate holder's operations specifications.

(b) The Administrator determines the number of initial allocations for each certificate holder based on the total number of commercial air tours conducted by the certificate holder and reported to the FAA during the period beginning on May 1, 1997 and ending on April 30, 1998.

(c) Certificate holders who conducted commercial air tours during the base year and reported them to the FAA receive an initial allocation.

(d) Allocations are apportioned between peak season and off-season. Peak season allocations may be used in the off-season, but off-season allocations may not be used in the peak season. For the purposes of this section seasons are defined as follows:

(1) Peak-Season: May 1–September 30
(2) Off-Season: October 1–April 30

(e) A certificate holder must use one allocation for each flight that is a commercial air tour.

(f) Each certificate holder's operation specifications will identify the following information, as applicable:

(1) Total SFRA allocations;

(2) Dragon corridor and Zuni Point corridor allocations;

(3) Peak season allocations for the SFRA; and

(4) Peak season allocations for the Dragon and Zuni Point corridors.

9. Section 93.321 is added to read as follows:

§ 93.321 Transfer and termination of allocations.

(a) Allocations are not a property interest; they are an operating privilege subject to absolute FAA control.

(b) Allocations are subject to the following conditions:

(1) The Administrator will re-authorize and re-distribute allocations no earlier than two years from the effective date of this rule.

(2) Allocations that are held by the FAA at the time of reallocation may be distributed among remaining certificate holders, proportionate to the size of each certificate holder's allocation.

(3) The aggregate SFRA allocations will not exceed the number of operations reported to the FAA for the base year beginning on May 1, 1997 and ending on April 30, 1998.

(4) Allocations may be transferred among Part 135 or Part 121 certificate holders, subject to the following:

(i) Such transactions are subject to all other applicable requirements of this chapter.

(ii) Allocations authorizing commercial air tours outside the Dragon and Zuni Point corridors may not be transferred into the Dragon and Zuni Point corridors. Allocations authorizing commercial air tours within the Dragon and Zuni Point corridors may be transferred outside of the Dragon and Zuni Point corridors.

(iii) A certificate holder must notify in writing the Las Vegas Flight Standards District Office within 10 calendar days of a transfer of allocations. This notification must identify the parties involved, the type of transfer (permanent or temporary) and the number of allocations transferred. Permanent transfers are not effective until the Flight Standards District Office reissues the operations specifications reflecting the transfer. Temporary transfers are effective upon notification of the Flight Standards District Office.

(5) An allocation will revert to the FAA upon voluntary cessation of commercial air tours within the SFRA for any consecutive 180-day period.

(6) The FAA retains the right to re-distribute, reduce, or revoke allocations based on:

(i) efficiency of airspace;

(ii) voluntary surrender of allocations;

(iii) involuntary cessation of operations; and

(iv) aviation safety.

10. Section 93.323 is added to read as follows:

§ 93.323 Flight plans.

Each certificate holder conducting a commercial SFRA operation must file a visual flight rules (VFR) flight plan in accordance with § 91.153. The flight plan must be on file with a FAA Flight Service Station prior to each flight. Each VFR flight plan must identify the purpose of the flight in the ''remarks'' section according to one of the types set forth in the ''Las Vegas Flight Standards District Office Grand Canyon National Park Special Flight Rules Area Procedures Manual'' available from the Las Vegas Flight Standards District Office.

11. Section 93.325 is added to read as follows:

§ 93.325 Quarterly reporting.

(a) Each certificate holder must submit in writing, within 30 days of the end of each calendar quarter, the total number of commercial SFRA operations conducted for that quarter. Quarterly reports must be filed with the Las Vegas Flight Standards District Office.

(b) Each quarterly report must contain the following information:

(1) Make and model of aircraft;

(2) Identification number (registration number) for each aircraft;

(3) Departure airport for each segment flown;

(4) Departure date and actual Universal Coordinated Time, as applicable for each segment flown;

(5) Type of operation; and

(6) Route(s) flown.

Issued in Washington, DC, on July 1, 1999.

L. Nicholas Lacey,

Director, Office of Flight Standards.

[FR Doc. 99–17319 Filed 7–6–99; 12:06 pm]

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Federal Register

Friday
July 9, 1999

Part VI

Architectural and Transportation Barriers Compliance Board

36 CFR Part 1191

Americans With Disabilities Act Accessibility Guidelines; Recreation Facilities; Proposed Rulemaking

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1191

[Docket No. 98–5]

RIN 3014–AA16

Americans With Disabilities Act Accessibility Guidelines; Recreation Facilities

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) proposes to amend the Americans with Disabilities Act Accessibility Guidelines (ADAAG) by adding a new special application section for newly constructed and altered recreation facilities that are not adequately addressed by the existing guidelines. The new section covers amusement rides, boating facilities, fishing piers and platforms, golf courses, miniature golf, exercise equipment and machines, bowling lanes, shooting ranges, swimming pools, wading pools, and spas. The proposed rule also amends several existing ADAAG provisions to specifically address certain recreation facility features and adds provisions for saunas and steam rooms, and benches. Finally, the proposed rule adds a provision for boat and ferry docks. The amendments will ensure that newly constructed and altered recreation facilities are readily accessible to and usable by individuals with disabilities.

DATES: Comments should be received by November 8, 1999. The Access Board will hold a public hearing on the proposed rule on August 26, 1999 from 9:00 a.m. to 3:00 p.m.

ADDRESSES: Comments should be sent to the Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Fax number (202) 272–5447. E-mail comments should be sent to recreate@access-board.gov. Comments sent by e-mail will be considered only if they include the full name and address of the sender in the text. Comments will be available for inspection at the above address from 9:00 a.m. to 5:00 p.m. on regular business days.

The public hearing will be held at the Hyatt Regency, 300 Reunion Boulevard in Dallas, Texas. Interested members of the public may contact the Board at (202) 272–5434 extension 18 or (202) 272–5449 (TTY) to preregister to give testimony or may register on the day of the hearing.

FOR FURTHER INFORMATION CONTACT: Peggy Greenwell, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Telephone number (202) 272–5434 extension 34 (Voice); (202) 272–5449 (TTY). These are not toll-free numbers. E-mail address: greenwell@access77.board.gov.

SUPPLEMENTARY INFORMATION:

Availability of Copies and Electronic Access

Single copies of this publication may be obtained at no cost by calling the Access Board's automated publications order line (202) 272–5434, by pressing 1 on the telephone keypad, then 1 again, and requesting publication S–37 (Recreation Facilities Notice of Proposed Rulemaking). Persons using a TTY should call (202) 272–5449. Please record a name, address, telephone number and request publication S–37. This document is available in alternate formats upon request. Persons who want a copy in an alternate format should specify the type of format (cassette tape, Braille, large print, or computer disk). This document is also available on the Board's Internet site (http://www.access-board.gov/rules/recnprm.htm).

Background

The Americans with Disabilities Act (ADA) (42 U.S.C. 12101 *et seq.*) is a comprehensive civil rights law that prohibits discrimination on the basis of disability and requires, among other things, that newly constructed and altered State and local government buildings and facilities, places of public accommodation, and commercial facilities be readily accessible to and usable by individuals with disabilities. The Architectural and Transportation Barriers Compliance Board (Access Board) [1] is responsible for developing accessibility guidelines for newly constructed and altered buildings and facilities subject to the ADA. The Access Board initially issued the Americans with Disabilities Act Accessibility Guidelines (ADAAG) (36 CFR part 1191) in 1991.[2] The ADA requires the Department of Justice and the Department of Transportation to publish regulations that include design standards for newly constructed and altered buildings and facilities that are consistent with ADAAG.[3]

ADAAG contains scoping provisions and technical specifications for designing parking areas, entrances, toilet rooms and other elements and spaces that typically comprise a building and its site so that individuals with disabilities will have ready access to and use of the facility. ADAAG also contains special application sections for certain types of facilities, including restaurants, medical care facilities, business and mercantile establishments, libraries, transient lodging, and transportation facilities. ADAAG was amended in 1998 to add special application sections for certain State and local government facilities, including judicial, legislative and regulatory facilities, and detention and correction facilities.

Various types of recreation facilities are covered by the ADA. The Access Board is now proposing to amend several existing sections of ADAAG and to add a new special application section to address the unique features of recreation facilities that are not adequately addressed by the current guidelines. The ADA covers a wide variety of recreation facilities such as boating and fishing facilities, golf courses, parks, places of amusement, play areas, sports facilities, and trails. In

[1] The Access Board is an independent Federal agency established by section 502 of the Rehabilitation Act (29 U.S.C. 792) whose primary mission is to promote accessibility for individuals with disabilities. The Access Board consists of 25 members. Thirteen are appointed by the President from among the public, a majority of who are required to be individuals with disabilities. The other twelve are heads of the following Federal agencies or their designees whose positions are Executive Level IV or above: The departments of Health and Human Services, Education, Transportation, Housing and Urban Development, Labor, Interior, Defense, Justice, Veterans Affairs, and Commerce; General Services Administration; and United States Postal Service.

[2] Existing buildings and facilities, while subject to certain ADA requirements, are not addressed by ADAAG except where altered. Section 4.1.6 of the 1991 ADAAG contains the provisions relating to alterations. Generally, each altered element and space is required to comply with new construction technical specifications unless technically infeasible. If alterations are made to an area containing a primary function area, an accessible path of travel is required to the altered area to the extent that the cost is not disproportionate to the cost of the overall alteration as determined under regulations issued by the Department of Justice. For the Department of Justice's regulations on alterations to a primary function area, see 28 CFR 36.403.

[3] The ADA Standards for Accessible Design published by the Department of Justice (28 CFR part 36, Appendix A) are based on the 1991 ADAAG. Newly constructed and altered recreation facilities covered by the ADA must comply with the ADA Standards for Accessible Design to the extent that the standards apply to the facility (e.g., parking areas, accessible routes, entrances, toilet rooms, restaurants, mercantile establishments).

July 1993, the Access Board convened a Recreation Access Advisory Committee as the first step in developing these guidelines. The committee was comprised of owners and operators of recreation facilities; persons who design recreation facilities or manufacture related equipment; local, State and Federal officials responsible for parks and other outdoor developed areas; and individuals with disabilities and organizations representing their interests. The committee was requested to accomplish the following objectives:

- Develop a list of the various types of recreation facilities;
- Identify the features of each facility type that are not adequately addressed by ADAAG;
- Consider any unique design issues or constraints affecting access to each facility type;
- Review any existing voluntary guidelines for providing access to the various facility types; and
- Make recommendations for accessibility guidelines for each facility type.

The committee organized itself into six subcommittees based on facility types to accomplish these objectives: places of amusement; boating and fishing facilities; golf; play areas; sports facilities; and outdoor developed areas. The committee met five times between July 1993 and May 1994. Committee members spent most of their time working in subcommittees which reported to the full committee. The subcommittees also worked between committee meetings. Committee meetings were well attended by persons interested in the committee's work and public comment was received at each meeting. The subcommittees also encouraged interested persons to participate in their work, including providing information and reviewing draft reports. More than 250 people actively participated in the committee and subcommittee's work and collectively gave between 50,000 and 60,000 hours of their time. In July 1994, the committee formally presented its report and recommendations to the Access Board. The committee's recommendations represented the consensus of the members of each subcommittee, and not necessarily the full committee. Because of this, this notice refers to recommendations made by the subcommittee which examined particular facilities.

After receiving the committee's report, the Access Board published an Advance Notice of Proposed Rulemaking (ANPRM) requesting public comment on the recommendations. 59 FR 48542 (September 21, 1994). More than 600 comments were received on the recommendations contained in the report. Overall, the comments were supportive of the committee's recommendations. However, public comment revealed a lack of a consensus on some major issues regarding the committee's recommendations for play areas and outdoor developed areas (i.e., trails, camping and picnic facilities, and beaches). There was also a need to gain additional input from some groups that had not been involved in the committee's work. For these reasons, the Board elected to use a regulatory negotiation process to develop proposed rules for play areas and outdoor developed areas. In February 1996, the Board established a regulatory negotiation committee on play areas. That committee met seven times, and the Board published a notice of proposed rulemaking on April 30, 1998 (63 FR 24080). In June 1997, the Board established a regulatory negotiation committee on outdoor developed areas. That committee will present a report to the Board in September 1999.

Using the Recreation Access Advisory Committee's recommendations, the Board has developed proposed accessibility guidelines addressing amusement rides, boating facilities, fishing piers and platforms, golf courses, miniature golf, sports facilities, swimming pools, wading pools, and spas. There were some areas where the Board needed additional information. For example, the Board sponsored a research project on swimming pool access to gather information. In other areas, the Board believed that existing ADAAG adequately addressed an element and as a result has not repeated or included the provisions in this proposed rule. Finally, there are areas that the Board has not addressed in this proposed rule. For example, accessibility guidelines for ski areas have not been proposed. The Board will continue to monitor and gather information in this and other areas for potential future rulemaking.

The Board also is responsible for establishing accessibility guidelines for federally financed facilities covered by the Architectural Barriers Act (42 U.S.C. 4151 *et seq.*), including facilities constructed or altered by Federal agencies. Since Federal agencies own or operate many of the same type of recreational facilities addressed by this proposed rule, the Board plans to take action at a future date to make the provisions applicable to federally financed facilities pursuant to the Architectural Barriers Act. Federal agencies and other interested persons are encouraged to comment on this proposed rule and how the provisions will affect recreational facilities owned or operated by the Federal government.

Section-by-Section Analysis

This section of the preamble contains a concise summary of the proposed rule. The proposed rule amends several existing sections of ADAAG and adds a new special application section. For purposes of the section by section analysis, the proposed amendments to the existing sections of ADAAG and the new special application section are summarized by type of facility.

Amusement Rides

3.5 Definitions

This section defines terms used in the proposed rule. Terms and definitions established within the industry have been used to the greatest extent possible.

The term ''amusement device'' means a device that moves persons through a fixed course within a defined area for amusement or entertainment purposes. Additionally, the definition specifies that the rider does not control or operate an amusement device.

The term ''amusement ride'' is defined as a system containing one or more amusement devices that provide the same general amusement experience.

Question 1: The proposed rule does not address amusement attractions without seats such as walk-through fun houses, mazes, or barrels. Additionally, the proposed rule does not address amusement rides where the patron has control over the ride, such as go-carts and bumper boats. The Board is considering developing guidelines for these types of amusement rides and attractions. Specific information regarding the unique characteristics of these rides and how persons with disabilities have accessed these rides is requested.

4.1.3(19)(a) Exception

ADAAG 4.1.3(19)(a) requires a specific number of wheelchair spaces in an assembly area, based on the number of seats. An exception is proposed to allow the installation of transfer seats instead of wheelchair spaces, where the motion of fixed seats is an integral part of an amusement experience. This exception applies only to fixed seats in amusement facilities. Some seats in amusement attractions, such as flight simulators, may provide motion as an integral part of the amusement experience. Where seats move independent of the user, transfer seats may enhance the user's amusement experience.

15.1 Amusement Rides

The proposed guidelines apply to permanent amusement rides and devices with fixed seats that are set up for a long duration and are not regularly assembled and disassembled (e.g., rides in amusement parks and theme parks). They do not apply to amusement rides and devices set up for a short period and assembled and disassembled regularly (e.g., rides that are part of traveling carnivals, State and county fairs, festivals, and other special events). However, itinerant amusement rides and devices are covered by the ADA when they are provided by a public entity or a public accommodation. The obligations of covered entities operating itinerant amusement rides and devices are established by the Department of Justice ADA regulations.

15.1.1 Number Required

This section applies to amusement rides with amusement devices containing fixed seats. One wheelchair space complying with 15.1.3 is required per 100 fixed seats, or fraction thereof, on each amusement ride. In addition, one transfer seat complying with 15.1.4 must be provided per 100 fixed seats, or fraction thereof, on each amusement ride. Unlike other assembly seats, amusement ride devices cycle frequently (between ninety seconds and fifteen minutes). Each device accommodates a high volume of people due to its short cycles. Requiring wheelchair spaces and transfer seats will provide more choice and options for integrated seating.

The places of amusement subcommittee recommended that at least one wheelchair space and at least one transfer seat be provided on an amusement ride. They recommended that where a ride is comprised of three cars, for example, one wheelchair space and one transfer seat should be provided on one of the three cars. The Board has based the requirement for wheelchair spaces and transfer seats on the number of fixed seats provided on each ride. Given the diversity of amusement rides, this approach is intended to simplify the requirement.

15.1.1 Exception

This exception permits the use of an additional transfer seat instead of the required wheelchair space, where it is not operationally or structurally feasible to provide wheelchair spaces. For purposes of this section, feasibility is not to be determined by the cost of providing a wheelchair space. Amusement rides must be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. A determination that it is operationally or structurally infeasible should be based on an engineering analysis that demonstrates that placing a wheelchair on a ride would have a significant adverse effect on the structural integrity of either the mobility device or the amusement device. For example, some wheelchairs may not be designed to withstand the forces that are a part of a ride. The places of amusement subcommittee suggested that accommodating a person in a wheelchair on an amusement device may not be feasible on a looping roller coaster, for example, because the use of a wheelchair may raise a person's center of gravity and impact the dynamic forces of a ride. A wheelchair may also create instability on a raft ride. Designers should think about how to provide a wheelchair space on a ride from the conceptual phase onward. If a designer determines at some point that it is not operationally or structurally feasible to do so, the guidelines do not require any specific documentation. However, the designer should be prepared to explain the basis for the determination if any questions arise about the use of the exception.

15.1.1.1 Dispersion

This section requires that accessible amusement devices be dispersed throughout an amusement ride. Where different types of amusement devices are provided, accessible devices are required to be dispersed among the different types.

15.1.2 Accessible Loading and Unloading Areas

This provision requires an accessible route to connect the portion of the loading and unloading area serving each accessible amusement device. The loading and unloading area serving each accessible amusement device must provide a level maneuvering space complying with ADAAG 4.2.3. This section permits loading and unloading in the same area. This reduces the need to move a wheelchair or other mobility device from the load area to the unload area.

15.1.2.1 Wheelchair Storage Space

This provision requires a wheelchair storage space complying with ADAAG 4.2.4 to be provided in the unloading area for each required transfer seat. For example, if a ride provides 200 fixed seats, two transfer seats would be required. Thus, two wheelchair storage spaces would also be required. Wheelchair storage spaces are necessary so that individuals who transfer from their wheelchair to a ride device will have a place to leave their wheelchair. The wheelchair storage spaces cannot overlap any required means of egress or required accessible routes.

15.1.2.2 Signage

This provision requires amusement rides to provide signs at the entrance of queues and waiting lines to identify whether the accessible amusement devices provide wheelchair spaces, transfer seats, or both. Where an accessible unload area is coincident with the accessible load area, the ride must provide signs at the entrance to the queue or waiting line showing the location of the accessible load and unload area. Signage will provide important information to people with disabilities regarding the type of access provided (i.e., roll-on or transfer) and the location of the accessible loading area. Since not every person can transfer from a wheelchair or mobility device, signs will reduce unnecessary backtracking.

15.1.2.3 Loading and Unloading

This provision requires the height of loading and unloading areas to be coordinated with the floor height of an amusement device. When an amusement device is at rest, the vertical difference between the floor height of the loading and unloading area and the floor height of the amusement ride device must be within plus or minus ⅝ inches under normal passenger load conditions. The horizontal gap between the amusement ride device and the edge of the loading and unloading area must be no greater than 3 inches. These changes in level are consistent with the rail-to-platform height required in ADAAG 10.3.1(9) (Fixed Transportation Stations).

15.1.2.3 Exception

This exception permits the use of ramps, bridge plates, or similar manually deployed devices complying with the applicable requirements of 36 CFR 1192.83, where it is not operationally or structurally feasible to meet the horizontal or vertical difference requirements between amusement ride devices and loading and unloading areas. The technical requirements for ramps and bridge plates are based on the provisions for light rail vehicles. For purposes of this section, feasibility is not to be determined by the cost of providing access where there are horizontal or vertical differences. An engineering analysis, however, may demonstrate that eliminating the horizontal or vertical difference between the ride

device and the loading and unloading areas would have a significant adverse effect. Gaps between the amusement ride device and the load and unload areas are necessary to protect patrons from potential pinching. Amusement ride devices with more complicated suspensions may also be unable to meet the access requirements and allow for the safe movement of the amusement ride device. If a designer determines that it is not operationally or structurally feasible to meet the horizontal or vertical difference requirements between the amusement ride device and the loading and unloading area, the guidelines do not require any specific documentation. However, the designer should be prepared to explain the basis for the determination if any questions arise about the use of the exception.

15.1.3 Wheelchair Space

This section contains technical provisions for wheelchair spaces on accessible amusement devices.

15.1.3.1 Floor or Ground Surface

This section requires floor or ground surfaces to be level. Additionally, wheelchair spaces must comply with ADAAG 4.5.1, 4.5.3 and 4.5.4. These sections address surface characteristics, carpet, and gratings. This section is consistent with other ADAAG provisions for wheelchair spaces in assembly areas.

15.1.3.2 Width

This section requires a wheelchair space to be 36 inches minimum in width. A 36 inch width is required, as opposed to 30 inches, because of the confined spaces often found on amusement devices. This is consistent with the maneuvering clearances required by ADAAG 4.2.4 for alcoves.

15.1.3.3 Depth

This section requires that where a wheelchair space can be entered from the front or rear, the wheelchair space must be 48 inches minimum in depth. Where a wheelchair space can be entered only from the side, the wheelchair space must be 60 inches minimum in depth.

15.1.3.4 Approach

This section requires that at least one side of the wheelchair space adjoin an accessible route.

15.1.3.5 Fixed Companion Seats

This section requires that where amusement devices provide seating for more than one rider, a fixed companion seat must be provided for each required wheelchair space. Where amusement devices provide shoulder to shoulder seating, companion seats must be shoulder to shoulder with the adjacent wheelchair space. For example, where an amusement device provides single seating in the front and rear of a device, the companion seating is not required to be positioned shoulder to shoulder with the wheelchair space. Where a ride provides seating for more than one rider sitting shoulder to shoulder, the wheelchair space and required companion seating must also be aligned shoulder to shoulder.

15.1.4 Transfer Seat

This section contains technical provisions for transfer seats on accessible amusement devices. Some of the provisions may be consistent with current design practices. The places of amusement subcommittee recommended technical provisions for a diagonal approach, side approach, and other special transfer provisions. The Board has proposed provisions for side transfers only, because in many cases one transfer seat will be provided and a side transfer will be accessible to the greatest range of individuals with disabilities.

15.1.4.1 Clear Floor Space

This section requires a clear space complying with ADAAG 4.2.4.1 to be provided with the longer dimension parallel to the unobstructed side of the transfer seat and to be located within 3 inches maximum of the transfer seat. A clear space allows space for a stationary wheelchair adjacent to the transfer seat. The clear floor space must extend 12 inches beyond the back of the seat so that the rear wheels of a wheelchair do not obstruct a person's transfer.

15.1.4.2 Maneuvering Space

This section permits the maneuvering space required by 15.1.2 to overlap the clear floor space serving transfer seats. This is consistent with existing ADAAG requirements.

15.1.4.3 Transfer Seat Dimensions and Position

This section requires the height of transfer seats to be 17 inches minimum to 19 inches maximum above the load and unload platform. The end of the transfer seat adjacent to the clear floor space complying with 15.1.4.1 must be unobstructed when in the load or unload position to permit transfer. The places of amusement subcommittee recommended a height of 15 to 19 inches to address the needs of children. The proposed guidelines are largely based on adult dimensions. As a result, the 17 to 19 inch range, which is consistent with other elements designed for transfer (ADAAG 4.16 and ADAAG 4.21), has been proposed. ADAAG 2.2 permits equivalent facilitation. This means that departures from these proposed provisions will be permitted, provided that alternative designs and technologies used provide substantially equivalent or greater access to and usability of the amusement ride. If, for example, an amusement ride is to be used primarily by children, a lower transfer seat height may be appropriate.

15.1.4.4 Transfer Entry

This section requires that, when in the load and unload position, an amusement device provide a 36 inch wide minimum entry. The entry must provide an opening and be positioned parallel to the longer dimension of the clear floor space.

Question 2: The places of amusement subcommittee indicated that on certain amusement devices, transfer access may not be possible. Examples included amusement devices in flumes and pools where the pool sides must be higher than the amusement devices. Also, in some water rides, water levels must be kept lower than the loading areas. Are there other amusement devices with seats where it is not operationally or structurally feasible to design the amusement device to provide transfer seats? The Board is interested in specific information on why such amusement devices cannot be designed to provide transfer seats. The Board requests comments on how ADAAG should address amusement devices where transfer access cannot be provided. The Board also requests comments on the impact of providing a wheelchair space and a transfer seat on permanent amusement rides with a small number of fixed seats.

Question 3: The Board has examined issues related to providing an accessible route connecting accessible elements on sites used for fairs, carnivals, and other itinerant places of amusement. In many circumstances, a site such as a field or parking lot may be used for a short period of time. Where the site is altered to provide a route to serve the temporary elements, ADAAG accessible route provisions apply. This requires, among other things, for the surface to be stable, firm, and slip-resistant and to have a conforming slope. The places of amusement subcommittee recommended that fairs, carnivals, and other itinerant places of amusement provide a modified accessible route to connect temporary elements. The Board requests comments on how to address the issue of accessible routes in itinerant

places of amusement. When a site is altered to provide a route to serve temporary elements, should the route be required to meet the technical provisions of ADAAG 4.3? If not, how should such routes be treated? What factors should be considered in determining when it is appropriate to depart from the technical provisions for an accessible route?

Question 4: The proposed rule does not contain any requirement for access to water slides. The Board requests comment on this issue.

Boating Facilities

3.5 Definitions

This section defines terms used in the proposed rule.

The term ''boat launch ramp'' is defined as a sloped surface designed for the launching and retrieval of trailered boats to and from the water.

The term ''boat slip'' is defined as the area where a boat is tied to a dock or pier for the purpose of embarking or disembarking.

The term ''design high point'' means a selected elevation, based on hydrologic data and other appropriate records, that is used as a safe and practical upper limit for the design and construction of a gangway to a floating facility. The term is necessary for establishing a vertical measurement to the water level. Designers have some discretion in determining the high point based on this information. The Board has combined the design high point with other factors to determine gangway slopes.

The term ''gangway'' is defined as a variable-sloped structure linking a fixed structure or land with a floating structure.

10.5 Boat and Ferry Docks

This section requires that boat and ferry docks comply with 15.2. The Board added a special application section for transportation facilities (section 10) to ADAAG in 1991. However, provisions to address access to floating boat and ferry docks were not yet developed and section 10.5 was reserved. This section applies the provisions contained in 15.2 to boat and ferry docks covered by 10.5.

15.2 Boating Facilities

This section applies to each boating facility provided within a site and requires compliance with the applicable provisions of 15.2. A boating facility can contain one or more piers and the same facility can also include one or more boat launch ramps. In some cases, such as a State park with a large lake, a site may contain more than one boating facility. In other cases, several boating facilities may be located in the same waterfront area, each operated by different operators. The provisions of 15.2 apply to each boating facility.

15.2.1 Gangways

This section requires that gangways which are part of an accessible route comply with ADAAG 4.3. Gangways are permitted to have transition plates at the top and bottom.

At boating facilities, gangways function as bridges that link land or fixed structures with floating piers. As water levels rise and fall, the gangway slopes also rise and fall. Sometimes the changes may be very gradual over a period of weeks or months, and in other cases dramatic changes occur over a few hours. Often, the land sides of gangways are hinged to fixed structures with the pier sides left free to move across the pier surfaces as the slope of the gangway changes. Rollers are sometimes attached to the pier end to allow the gangway to adjust freely as the slope changes. These rollers can produce changes in level between the walking surface at the end of the gangway and the walking surface of the floating pier. Other friction reducing aids and the framing that forms the structural supports of the gangway can produce changes in level. Sometimes, neither end of the gangway is hinged and a change in level occurs at both ends.

Where the slope of an accessible route exceeds 1:20, ADAAG 4.3.7 requires the sloping surface to comply with ADAAG 4.8 (Ramps). ADAAG 4.8 requires level landings at the top and bottom of each ramp segment. Because of the changing water levels and the varying slopes of gangways, the boating and fishing subcommittee recognized the difficulty in providing level landings. Proposed 15.2.1 permits the use of transition plates at the top and bottom of a gangway. Transition plates are often constructed of metal and are used to connect the ends of a gangway to a boarding dock. The boating and fishing facilities subcommittee recommended that transition plates be allowed at the ends of gangways and that these transition plates have slopes less than or equal to 1:12 (8.33 percent).

15.2.1 Exceptions 1 and 2

Exception 1 proposes that the maximum rise requirements of ADAAG 4.8.2 not apply to gangways. In addition, exception 2 proposes that gangways be permitted to exceed the 1:12 maximum slope specified by ADAAG 4.8.2, when the vertical distance between the design high point and the level of the water exceeds the vertical distance specified in the left hand column of Table 15.2.1 and the square footage of fixed and floating piers at the facility is less than the square footage specified in the right hand column of Table 15.2.1.

One of the most difficult issues relating to accessibility in boating facilities is the issue of gangway slopes. Bodies of water fluctuate due to rainfall, snow melting, droughts, reservoir draw downs, surge effects, tidal forces, flood control, and other factors. Fluctuations can range from less than 12 inches to changes of more than 40 feet, and sometimes, several hundred feet with reservoir impoundments. Changes can occur rapidly over a few hours or gradually over an operating season. Overall, boating and fishing facilities subcommittee members agreed that under some circumstances, the slope of a gangway could exceed the maximum 1:12 slope allowed for ramps by ADAAG 4.8.2. The boating and fishing facilities subcommittee recommended three options for gangway slopes.

Option 1 recommended that where water level changes do not exceed 5 feet during the operating season, gangways should comply with ADAAG 4.3. The boating and fishing facilities subcommittee noted that additional information was needed to recommend design standards where water level changes exceed 5 feet.

Option 2, primarily based on recommendations made by the States Organization for Boating Access, recommended that gangways be allowed to be 60 feet long before a level landing is required. It also recommended that gangways located in areas with annual water fluctuations of zero to 5 feet should have slopes that do not exceed 1:12, the maximum permitted by ADAAG 4.8.2. In areas with annual water fluctuations of 5 feet or more during 92 percent of the operating season, the slope of the gangway should not exceed 1:12.

Option 3 recommended that an accessible route be provided to at least one of each type of boating activity in recreational boating facilities. A gangway connecting an accessible dock or pier should comply with ADAAG 4.3 during all operating hours of a facility. Boating and fishing facilities subcommittee members also noted that additional information was needed to determine when exceptions to ADAAG 4.3 should apply.

A substantial majority of commenters to the ANPRM supported option 2. Most supporters of option 2 agreed with allowing the gangway to be 60 feet long. However, a substantial number of

commenters did not support the 92 percent requirement and recommended that the percentage should be closer to 50 percent.

The Board determined that further information and cost data was necessary to develop a slope requirement for gangways. In 1996, the Board completed a study to develop design solutions and general cost estimates for providing access to floating boating facilities. The study found that there was a relationship between the cost of compliance with ADAAG 4.3 and water level change. Costs of providing gangway ramping systems conforming to ADAAG 4.3 ranged from $10,000 for a 30 inch water level change to $450,000 for a 30 foot water level change. Cost estimates included fabrication, delivery, and placement of a gangway in the water, but excluded configuration and mooring system costs. The study also indicated that price bids in a competitive marine environment can easily vary up to 50 percent above or below engineers' estimates.

As the range of water level changes increases, so does the complexity of the structures designed to provide access. In one example provided in the Board's study, a design was provided to access a 12.5 foot change in water level while still complying with existing ADAAG requirements. The design included three ramps on land, four on a floating structure, and two 64 foot gangways. Because ADAAG 4.8.2 limits the rise of a ramp run to 30 inches, the design increased the gangway length so that the slopes never exceeded 1:20. The estimated cost for this gangway ramping system was more than $200,000.

The study also evaluated the use of elevators and platform lifts and reported that in the 30 inch to 30 foot range, gangway ramp systems could be half as expensive as lift or elevator-based systems. It was also noted that there are maintenance difficulties in operating mechanical devices such as platform lifts and elevators in saltwater environments.

The Board recognizes that the interface between land and water environments is often very dynamic and constraints exist which cannot be easily resolved. Waterside restrictions include limits on how far piers may project from shore lines into navigable channels. For small facilities, such as a bait shop with a floating pier capable of mooring a few row boats, the cost of providing a gangway conforming to ADAAG 4.3 could become economically infeasible as the change in water level increases. However, for large facilities, such as a 1000-slip marina, conformance to ADAAG 4.3 would be feasible even as the change in water level increases.

In an attempt to balance the economic impact of this proposed rule with the access concerns of persons with disabilities, the Board identified two issues with the greatest impact on floating facilities: gangway lengths and gangway slopes. As the range of water level changes increase, gangways generally increase in length. Where gangway lengths are restricted, supporting land and pier ramps must be provided, which increase the size and complexity of such gangway ramping systems. The study showed that by allowing a gangway length to increase beyond 30 feet, and even beyond 60 feet, the complexity and size of the gangway ramping system was often reduced. Therefore, this section proposes that the rise restrictions under ADAAG 4.8.2 not apply to gangways.

With respect to gangway slopes, the Board sought to balance access and the economic impact on small and large facilities. Exception 2 references table 15.2.1 which establishes conditions where gangways are permitted to exceed a 1:12 slope. The table is based on the vertical distance the water level descends below an established design high point and the square footage of all the fixed and floating piers at a boating facility. Since this exception only applies to gangways, accessible routes to fixed piers must conform to all requirements of ADAAG 4.3, including slope. Fixed piers are not subject to water level changes and gangways are not needed. Also, because this exception is applicable only to gangways, fixed ramping systems required on land or on floating piers must conform to all requirements of ADAAG 4.3, including slope.

The table permits, during the time the water level is beyond a certain distance from a design high point, a gangway to exceed the slope maximums of ADAAG 4.3. Although the exception allows slopes greater than allowed by ADAAG 4.3, the exception has not modified any other requirement of ADAAG 4.3, such as handrails. The exception applies to tidal and non-tidal settings and to all gangways within a boating facility that are part of an accessible route.

Based on this exception, some boating facilities will not have access conforming to ADAAG 4.3 all the time. Some facilities may have access conforming to ADAAG 4.3 only during times when the water level is at higher levels and as water levels decline, the gangway slopes will become steeper. Because gangway slopes rise and fall, it is possible that for some facilities, gangways will also have zero slopes for certain water levels. Where table 15.2.1 establishes no maximum slope, a sloped surface is still required. Stairs are not permitted as a part of an accessible route.

Question 5: Some floating piers, although small, are designed primarily for use by larger passenger vessels, such as tour boats. The Board is considering adding a provision that would also control the slope of a gangway in some facilities based on the size of the vessels they are designed to accommodate. The Board is interested in the extent to which floating piers are provided for use by passenger vessels carrying more than 150 passengers or more than 49 overnight guests. Specific size and cost information for the construction of this type of facility is also requested.

15.2.1 Exception 3

This section exempts handrail extension requirements on gangways or landings where they connect to transition plates and permits transition plates to be free of handrail extensions.

ADAAG 4.8.5 requires that if a ramp has a rise greater than 6 inches or a horizontal projection greater than 72 inches, handrails are required on both sides. ADAAG 4.8.5(2) further provides that if handrails are not continuous, they shall extend at least 12 inches beyond the top and bottom of the ramp segment and be parallel with the floor or ground surface.

Because gangway slopes change, ensuring that handrail extensions remain parallel with adjacent walking surface would be difficult. In addition, if transition plates are required to have handrail extensions, these extensions would also have problems remaining parallel with adjacent walking surfaces and would overlap with the gangway extensions. For these reasons, handrail extensions are not required on gangways or landings where they connect to transition plates and are not required on transition plates.

15.2.2 Slips: Minimum Number

This section requires that where boat slips are provided, at least 3 percent, but not less than one, shall comply with 15.2.3. Accessible boat slips must be dispersed throughout the various types provided. This dispersion provision does not require an increase in the minimum number of boat slips required to be accessible.

The boating and fishing facilities subcommittee recommended that when boat slips are provided, the number of accessible boat slips be determined using the scoping provisions of ADAAG 4.1.2(5)(a) for vehicle parking spaces. Using ADAAG 4.1.2(5)(a), a 100-slip

boating facility would need 4 accessible boat slips. Most commenters responding to this recommendation in the ANPRM supported using the vehicle parking scoping. A few commenters questioned whether the need for accessible boat slips was the same as accessible vehicle parking spaces.

Designing accessible boat slips will have limited impact on newly constructed boating facilities. Wider piers and pier clearances are often incorporated into newer facilities. The 3 percent requirement was selected to parallel the accessible vehicle parking requirements. A percent was used, as opposed to a table, to simplify application. Therefore, a 50-slip boating facility would need two accessible boat slips and a 100-slip facility would need three accessible boat slips. However, where the number of boat slips cannot be identified, each 40 feet of mooring space provided along the perimeter of a pier shall be counted as one boat slip.

To ensure that persons with disabilities have access to different types of boat slips, 15.2.2 also requires that the accessible boat slips be dispersed throughout the various types provided. Types include the size of the boat slip, single berths, double berths, depth of the water, transient, longer-term lease, covered slips, and slips equipped with features such as telephone, water, electricity and cable connections. To satisfy this dispersal requirement, the provision does not require an increase in the minimum number of boat slips required to be accessible.

15.2.2.1 Slips Serving Boat Launch Ramps

This section requires that, in addition to the requirements of 15.2.2, where boat launch ramps are provided with boarding piers, at least one accessible boat slip complying with 15.2.3 be provided adjacent to a boat launch ramp.

This provision has been proposed to ensure that where boarding piers are provided at boating facilities with launch ramps, at least one launch ramp will have an accessible boat slip. This accessible boat slip is in addition to the accessible boat slips required by 15.2.2.

Where an accessible boat slip is required on a boarding dock, an accessible route complying with ADAAG 4.3 must serve the slip. Where the boarding dock is a floating dock, a gangway complying with 15.2.1 is permitted. Section 15.2.1, exception 2, includes the square footage of the dock in the total square footage of fixed and floating piers at the boating facility.

Boat launch ramps typically have slopes steeper than 1:12 (8.33 percent). Steeper slopes allow boats to float free of their trailers while the depth of the water does not submerge the tow vehicle's exhaust system. In saltwater areas, steeper slopes also reduce saltwater exposure to the underside of tow vehicles. In general, the Board is not proposing any provisions that will change the slope of a boat launch ramp. However, where an accessible route connecting an accessible boarding dock is coincident with the boat launch ramp, that portion of the launch ramp must meet the requirements of ADAAG 4.3, including slope.

15.2.2.2 Location

This section requires that among each type provided, accessible boat slips be those nearest to amenities provided in a boating facility. Since travel distance is often an important consideration for persons with disabilities, the Board proposes this section to address the location of accessible boat slips. First, under 15.2.2, the various types of boat slips are determined and the required accessible boat slips are assigned to the selected types. Then, under this section, within the group of boat slips of the same type, the accessible slips must be the ones nearest to the amenities provided in a boating facility. The following example illustrates this provision.

A boating facility has two piers, each containing 60 boat slips. With a total of 120 boat slips, four accessible boat slips would be required. One pier has transient slips and the other has long-term lease slips. Both piers are served by the same parking lot and a public restroom. At the end of the transient slip pier, a ship's store and fueling station are provided. To comply with 15.2.2.2, the two accessible slips on the long-term lease pier must be located closest to the amenities provided, the parking lot and restroom. On the transient pier, one slip next to the parking lot must be accessible and one slip nearest to the ship's store and fueling station must be accessible.

15.2.3 Accessible Boat Slips

This section contains provisions for accessible boat slips.

15.2.3.1 Pier Clearances

This section requires that accessible boat slips be served by clear pier space 60 inches wide minimum and at least as long as the accessible boat slip. At least one 60 inch minimum continuous clear opening must be provided within every 120 inch maximum of linear pier edge serving an accessible boat slip.

Using the vehicle parking spaces in ADAAG 4.6 as a guide, the Board is proposing that an accessible boat slip be provided a 60 inch wide minimum pier space, similar to an access aisle, and at least as long as the boat slip. Boat slips may contain features such as pillions, bollards and cleats, and utility connections such as electrical, water, and sewage that can block or interfere with transfer to and from a boat. This section also requires that every 120 inches maximum of linear pier edge contain at least one opening 60 inches minimum along the edge of a pier at accessible boat slips to allow for access to and from a boat. Flexibility has been provided to designers and operators to decide the placement of these openings, understanding that the purpose is to allow space for transfer to and from a boat. For example, a 40 foot long accessible boat slip would have at least four clear openings provided along the pier edge. The different openings will accommodate different size vessels and mooring orientations (e.g., stern first, bow first).

Fishing Piers and Platforms

15.3 Fishing Piers and Platforms

This section requires that each fishing pier and platform comply with 15.3.

15.3.1 Accessible Route

This section applies the requirements for gangways in 15.2.1 when an accessible route connects a floating fishing pier or a floating fishing platform. The Board recognizes that floating fishing piers and floating fishing platforms are subject to many of the same constraints as floating boating piers. As a result, the gangway provisions of 15.2.1 would apply. The total square footage of floating and fixed pier space at a fishing facility must be used to determine the requirements for a gangway accessing a fishing pier or platform. If a boating facility has a floating boarding dock at a boat launch ramp and another floating structure which serves as a fishing platform, both the square footage of the boarding dock and the fishing platform would be used under 15.2.1, Exception 2, to determine the slope criteria for the gangway accessing the fishing platform. Likewise, the same square footage would be used to determine the slope criteria for the gangway accessing the boarding dock.

15.3.2 Railings

This section requires that where railings, guardrails, or handrails are provided, they must comply with 15.3.2.

15.3.2.1 Edge Protection

Where railings, guardrails, or handrails are provided, this section requires edge protection to be provided and extend 2 inches minimum above the ground or deck surface. The requirement for edge protection is triggered only where railings, guardrails, or handrails are provided on a fishing pier or platform. Edge protection will prevent wheelchairs and other mobility aids from slipping off the fishing pier or platform.

15.3.2.2 Height

Where railings, guardrails, and handrails have been installed on fishing piers and platforms, the height of the railings interfere with fishing and block vision for persons who use wheelchairs and other mobility devices. This section requires at least 25 percent of the railings to be a maximum of 32 inches high above the surface of the fishing pier or platform to address this problem. The section is based on the recommendations from the boating and fishing subcommittee. Anglers who stand can fish from any part of the pier or platform and change location depending on the fishing conditions. The boating and fishing subcommittee wanted to ensure that persons with disabilities have a similar range of choices to fish from a variety of locations.

This section does not address the material or spacing between the horizontal or vertical supports and between the top of the railing and the surface of the fishing pier or platform. Building codes and standards, and common construction practices address the design of these spaces, which can be solid or include vertical or horizontal barriers.

During the advisory committee meetings and in the comments on the ANPRM, questions were raised regarding whether guardrail standards issued by the Occupational Safety and Health Administration (OSHA) apply to recreational fishing piers and platforms. The OSHA standards apply ''with respect to employments performed in a workplace.'' 29 CFR 1910.5(a). The OSHA guardrail standards provide in relevant part that ''[e]very open-sided floor or platform 4 feet or more above adjacent floor or ground level shall be guarded by a standard railing.'' 29 CFR 1910.23(c). OSHA prescribes a 42 inch height for a standard railing. 29 CFR 1910.23(e). The Board has conferred with OSHA's Directorate of Compliance Programs, and that office has confirmed that OSHA does not routinely enforce its guardrail standards at recreational fishing piers and platforms.

Question 6: Many building codes and standards generally require a guardrail not less than 42 inches in height where there is an unenclosed floor opening more than 30 inches above the grade or floor below. These codes and standards do not require guardrails at certain locations such as the loading side of a loading dock or raised platforms used for entertainment, and permit lowered railings at other locations such as in front of the first row of fixed seats on a balcony. The Board seeks information about whether these codes and standards have been applied to recreational fishing piers and platforms. Where lower guardrails have been used, the Board is interested in knowing the height of those lower guardrails and what steps were taken to ensure that their use was permitted under the applicable codes and standards. In light of concerns that have been raised about safety issues related to lower guardrails, the Board also is interested in any experiences designers or operators have had where guardrails have been lowered to accommodate individuals using wheelchairs and other mobility devices.

15.3.2.3 Dispersion

This section requires that lowered railings (32 inch maximum) required by 15.3.2.2 be dispersed throughout a fishing facility. This provides anglers with disabilities with a choice of locations for fishing on a fishing pier or platform.

15.3.3 Clear Pier or Platform Space

This section requires that at least one clear space complying with ADAAG 4.2.4 be provided where the railing height required by 15.3.2.2 is located. Where no railings are provided, at least one clear space complying with ADAAG 4.2.4 shall be provided on the fishing pier or fishing platform. The Board has not set a minimum size for a fishing pier or platform, but has proposed minimum clear space requirements so that the accessible route can be adjacent to the 32 inch maximum high rails.

15.3.4 Maneuvering Space

This section requires that at least one maneuvering space complying with ADAAG 4.2.3 be provided on a fishing pier or platform to allow persons who use wheelchairs to turn and exit the space safely.

Golf

The golf subcommittee developed recommended accessibility guidelines for newly constructed 18 and 9 hole golf courses and for miniature golf courses. In examining 18 and 9 hole golf courses, the golf subcommittee considered all elements of the course and made recommendations that would increase accessibility for persons with disabilities without significantly changing the game of golf. Issues involving the application of ADAAG accessible route provisions were important in the golf subcommittee's discussions.

3.5 Definitions

This section defines terms used in the proposed rule. Terms and definitions established within the industry have been used to the greatest extent possible.

The term ''golf car passage'' is defined as a continuous passage on which a motorized golf car, also known as golf carts, can operate. Designers and operators sometimes use the term ''golf car path'' to identify what the Board is defining as a ''golf car passage''. Because the term ''golf car path'' may connote a prepared surface, the term was not used. While a golf car passage must be usable by golf cars, it does not necessarily need to be a prepared surface.

The Board recognizes that not all golf courses provide golf cars or golf car passages. However, by requiring a course to be designed and constructed to allow for golf car travel between accessible elements and spaces on a course, individuals who bring their own golf car or use those provided at a course, will have the opportunity to play the game of golf. On most courses where golf cars are not provided, paths for maintenance vehicles often exist which could support golf car passages and generally connect many of the elements and spaces required to be accessible.

A ''teeing ground'' is defined as the starting place for a hole to be played. This definition is consistent with the United States Golf Association definition, which describes a teeing ground as a rectangular area two club-lengths in depth, with the front and sides defined by the outside limits of two tee-markers.

15.4.1 Accessible Route

This section requires that, where the accessible route is located within the boundary of a golf course, it must be 48 inches wide minimum and connect to the bag drop areas, accessible teeing grounds, and putting greens. Additionally, where handrails are required, the accessible route is required to be 60 inches wide minimum.

The golf subcommittee considered the ADAAG requirements for an accessible route to be impractical on a golf course

for several reasons. First, the route of play for a golfer is dependent on where the ball lands and is therefore unpredictable. Secondly, there is an assumption that on most courses, most golfers use a golf car to move throughout the course. Finally, the golf subcommittee raised concerns that requiring an accessible route throughout a course would substantially alter the slopes within a course and eliminate some of the challenge of the game.

As a result, the golf subcommittee recommended that an accessible route only be required to connect course elements from a golf car path or a golf car parking area. This was intended to allow a golfer with a disability to ride in a golf car to reach a point where an accessible route would provide access to various course elements. Public comment received from golf course architects, operators, and the Association of Disabled Golfers to the ANPRM generally supported this approach.

The Board agrees that making the game of golf accessible to the majority of persons with disabilities can be achieved primarily through the use of golf cars. These proposed guidelines incorporate the concept of providing access through a golf car passage and allow for access to various elements. These proposed guidelines also ensure that all of the amenities (such as snack bars, toilet rooms, and weather shelters) on a course are accessible and are connected by a golf car passage.

Question 7: These proposed guidelines are based on the golf subcommittee's recommendations for 18 and 9 hole courses. Should smaller courses (i.e., 3 or 6 holes) have the option of using a golf car passage in lieu of a modified accessible route?

15.4.1 Exception 1

This exception permits the use of a golf car passage in lieu of all or part of an accessible route within the boundary of a golf course. This exception does not apply to practice putting greens and driving ranges since they are not located within a course.

Question 8: The proposed requirements for a golf car passage seek to provide access for players on a golf course. The Board requests comments on how access should be provided for spectators during a golf tournament.

15.4.1 Exception 2

This exception provides that accessible routes within the boundary of a golf course are not required to comply with handrail requirements in ADAAG 4.8.5. It is hazardous for handrails to be located through a green, or on teeing grounds, because of the danger of golf balls ricochetting off rails. Since most elements are required to be accessible from golf car paths, handrails would be of little utility along those routes.

15.4.2 Teeing Grounds

This section requires that where one teeing ground is provided for a hole, it must comply with 15.4.7. If two or more teeing grounds are provided for a hole, at least two teeing grounds must be accessible. The golf subcommittee recommended that as many teeing grounds as possible be made accessible on each hole, but that at least one accessible teeing ground per hole be required. The golf subcommittee based its recommendation on the premise that an accessible route with a running slope not exceeding 1:20 may be required to connect the golf car path and the teeing ground, and that it may not be possible to provide such a route to each teeing ground due to sloped terrain. The exception to 15.4.1, which permits the use of a golf car passage in lieu of an accessible route with the boundary of a golf course, is very flexible and would allow a golfer with a disability to access the teeing ground by using a golf car, instead of providing an accessible route to the area. The Board recognizes that some teeing grounds may be located on steep slopes and that it may not be possible to provide a golf car passage to each teeing ground. Comments to the ANPRM recommended that more than one accessible teeing ground be required for each hole. Commenters were concerned that if only one accessible teeing ground per hole were required, it would be the forward tee. Commenters considered that this would be discriminatory toward golfers with disabilities. When golf courses provide several teeing grounds for each hole, the placement of these areas is usually based on skill level (e.g., one set of teeing grounds would be the ''pro tee'' and the other set would be the ''amateur tee''). Golfers with disabilities want the same range of choice to play from different teeing grounds appropriate to their skill levels. The proposed rule would ensure a range of choice for golfers with disabilities.

Question 9: The Board requests comments on the number of accessible teeing grounds that should be required for each hole. If more than one accessible teeing ground is required per hole, should one of the accessible tees be the forward tee?

15.4.3 Driving Ranges and Practice Tees

This section requires that where driving ranges or practice tees are provided, at least 5 percent, but not less than one, of the practice tees must comply with 15.4.7. This provision applies to practice facilities adjacent to a golf course, in addition to stand-alone facilities.

15.4.4 Weather Shelters

This section requires weather shelters to be designed and constructed to allow a golf car to enter and exit in a forward direction and have a clear floor or ground space 60 inches minimum by 96 inches minimum. This space will allow a golf car to be driven directly into a weather shelter.

15.4.5 Golf Car Passage

This section requires openings at least 60 inches wide at intervals of 75 yards where curbs or other manmade barriers are provided along a golf car passage to prohibit a golf car from entering a fairway. These openings will provide access to fairways at reasonable intervals where golf cars are used to play the game.

15.4.5.1 Width

This section requires a golf car passage to be 48 inches wide minimum. This dimension is based on the standard width of gasoline or electric powered golf cars.

Question 10: Although the Board has proposed to allow a golf car passage within a golf course, limited technical requirements have been proposed for golf car passages. Should the Board establish additional technical requirements (e.g., maximum slope or changes in level)? Do criteria exist which govern the design and construction of golf car paths? Do requirements applicable to golf car paths exist in State or local codes? Do slope and width criteria allow use of the golf car passage by golf cars?

15.4.6 Putting Greens

This section requires putting greens to be designed and constructed to allow a golf car to enter, maneuver within, and exit the putting green. Unlike teeing grounds, each hole of a golf course is provided with only one putting green where the hole is located. This provision supports the use of a golf car on the putting green and requires space to allow a golf car to approach, enter, and exit. This requirement should not impact the design or space required for putting greens.

15.4.7 Teeing Grounds

This section requires teeing grounds to be level with a clear space of 10 feet by 10 feet and be designed and constructed so that a golf car can enter in a forward direction and maneuver.

This dimension is wide enough to accommodate a player playing off of the side of a golf car or from a wheelchair. The teeing ground is required to be level since slopes and cross slopes are difficult for wheelchair users to manage even on relatively flat routes of travel.

Question 11: Proposed technical provisions for teeing grounds require cross slopes no greater than 1:48 in all directions. The Board understands that maintaining this slope may be difficult on turf surfaces due to settling. Drainage problems have also been reported in areas where 1:48 slopes are provided. The Board requests information from operators on the maintenance of teeing areas where 1:48 slopes are provided.

The proposed rule does not contain any requirements for access to bunkers or other hazards. The golf subcommittee recommended that practice bunkers be made accessible, but not bunkers and hazards on the course. There was minimal support in the comments to the ANPRM to make bunkers and hazards accessible.

Miniature Golf

The golf subcommittee recommended accessibility guidelines for miniature golf facilities. While the majority of commenters responding to the ANPRM supported the recommendations, several operators and miniature golf trade groups were opposed to the recommendations. Concerns were expressed that the recommended accessibility guidelines would require additional space and cost, and would be too onerous for operators. There were also concerns about the loss of curbing in areas where a ball may ricochet.

To obtain additional information on providing access to miniature golf courses, the Board participated in information meetings with designers, operators, persons with disabilities, and representatives from miniature golf trade associations. The purpose of these meetings was to gather additional information about the varied range of facility types, accessibility barriers, obstacles for designers in providing accessibility, options for making individual holes accessible, providing an accessible route throughout a course, and trends in miniature golf course design. The Board has taken this additional information into account in proposing accessibility guidelines for miniature golf courses.

15.5 Miniature Golf Courses

This section requires each hole on a miniature golf course to be accessible. The technical requirements for an accessible hole on a miniature golf course are addressed in 15.5.2 and 15.5.3.

15.5 Exception

This exception permits no more than 50 percent of elevated miniature golf holes to be inaccessible. Since elevated holes are often designed to provide more of a challenge, this provision is proposed to ensure that a person with a disability has adequate opportunities to play some of the more challenging holes. The golf subcommittee recommended that all holes be made accessible. Operators and miniature golf trade groups felt that a requirement for every hole to be accessible would result in flat courses, taking some of the fun and challenge from the game. Commenters to the ANPRM also expressed concern that the golf subcommittee recommendations would have a negative impact on business or eliminate smaller courses by requiring accessible routes to all portions of a course. This proposed exception provides a compromise between the golf subcommittee's recommendation and the concerns of the industry and operators.

Question 12: Miniature golf course operators have claimed that additional costs may be associated with providing an accessible route to all elevated holes of a miniature golf course. These additional costs, however, have not been associated with courses that are considered level. The Board is seeking specific guidance on how to differentiate between level and elevated holes.

15.5.1 Accessible Route

This section requires that at least one accessible route connect start of play areas on each accessible hole. The accessible route connecting each start of play area required to be accessible may be located on the hole or adjacent to the hole. The accessible route must comply with ADAAG 4.3 and 4.8, where the slope of the route exceeds 1:20.

15.5.1 Exception 1

This exception permits readily removable curbs where the accessible route intersects the playing surface of a hole. The golf subcommittee recommended that the entry and exit points of a miniature golf hole be free of railings, obstacles, and elevation changes. During the comment period for the ANPRM, miniature golf course operators and the industry expressed concerns that this recommendation would significantly alter the play of the game. It was noted that curbs surround the majority of holes on a miniature golf course to prevent a ball from exiting a hole. This proposed exception balances the need for a person with a disability to access the hole and the concern to keep the ball on the hole.

To maximize the benefit of this feature, it will be important for players using the miniature golf course to know the location of the readily removable curbs. Several options are recommended for operators and designers including signage placed directly on the curb to show that it is removable or including information about the location of these curbs on the scorecard provided for players at the start of the game.

15.5.1 Exception 2

This exception permits a maximum slope of 1:4 for a maximum rise of 4 inches where the accessible route is located on the playing surface of a hole. This exception is only applicable where the accessible route connecting start of play areas is located on the hole. Permitting a greater slope for a limited distance will allow more flexibility in the design of the hole, while still providing access on the hole for the play of the game.

15.5.1 Exception 3

This exception eliminates the requirement for handrails on a ramp located on a miniature golf hole. Handrails are a potential hazard on a hole, because of the danger of golf balls ricochetting off the rails.

15.5.2 Start of Play Areas

This section requires a start of play area to be a 60 inch minimum by 60 inch minimum level area. This level start of play area is necessary so that a person using a wheelchair or other mobility device has sufficient space to maneuver into position to play the game.

15.5.3 Golf Club Reach Range

This section requires that all level areas within an accessible hole be located within 27 inches maximum of an accessible route with a slope not to exceed 1:20. This will allow space for wheelchair users to hit the ball from on the hole or from an accessible route adjacent to the hole. The space requirements incorporate the reach of a golf club. This provision allows persons with disabilities to be within the reach of their ball at all times, while not increasing the size of individual holes.

Play Areas

15.6 Play Areas [Reserved]

This Board issued proposed accessibility guidelines for play areas in April 1998. This section is reserved for the final guidelines for play areas,

which will be incorporated into this section in the future. Figures 64 to 74 are reserved for the play areas guidelines.

Sport Facilities

The sports subcommittee provided the Board with recommended accessibility guidelines for sports facilities. The sports subcommittee addressed a variety of sports facilities such as fitness centers, aerobic and martial arts studios, roller and ice skating rinks, leisure pools, lap pools and other swimming pools, bowling centers, horse racing facilities, and facilities for court sports (e.g., handball, basketball, tennis, racquetball, volleyball), field sports (e.g., baseball, lacrosse, soccer, track, softball, football, rugby) and gymnastics. This proposed rule is based on the sports subcommittee's recommendations and the comments received to the ANPRM.

3.5 Definitions

This section defines terms used in the proposed rule.

The term ''area of sport activity'' distinguishes that portion of a room or space where the play or practice of a sport occurs from adjacent areas. Examples of areas of sport activity include basketball courts, baseball fields, running tracks, bowling lanes, and the area surrounding a piece of fixed gymnastic equipment. While the size of an area of sport activity may vary from sport to sport, each includes only the space needed to play. The following examples are provided for additional clarification.

Example 1. Boundary lines define the field where a football game is played. A safety border is also provided around the field. The game may temporarily be played in the space between the boundary lines and the safety border when players are pushed out of bounds or momentum carries them forward while receiving a pass. Because the game of football anticipates that the space between the boundary line and the safety border is used to play the game, this space and the football field are included in the area of sport activity.

Example 2. Uneven bars and other pieces of gymnastic equipment generally include space around the equipment for gymnasts to safely use the apparatus, including mounting and dismounting. In this example, the area of sport activity includes the space within which the apparatus is located.

The sports subcommittee recommended the term ''field of play'' as a definition for the area where a sport is practiced or played. This term is not used in this guideline. However, the intent of the ''field of play'' concept is preserved. The term ''area of sport activity'' is used to indicate that the area required to be accessible is broader than a field of play and encompasses activities other than field sports.

4.1.1(5)(b)(iv)

This section provides a new general exception for access to raised structures used solely for refereeing a sport. This provision exempts raised structures such as elevated judging stations for horse racing facilities and refereeing stands used for volleyball games and tennis matches. These raised structures are similar to those currently exempted under ADAAG 4.1.1(5)(b), such as observation galleries, prison guard towers, fire towers, and fixed lifeguard stands. This exception should not be construed to obviate the obligations of State and local government entities to provide program access under title II of the ADA or for employers to provide reasonable accommodation under title I of the ADA.

4.1.2(2)(a)

This section requires that an accessible route complying with ADAAG 4.3 must connect both player ends of a court. Where there are multiple courts, such as in tennis complexes, net posts for adjacent courts may be too close to provide the minimum width required for an accessible route. This provision, however, requires only one accessible route between player ends of a court. Therefore, not every opening between adjacent net posts must comply with ADAAG 4.3. One opening could serve two adjacent courts. If a route is not accessible, it will restrict the movement of persons with disabilities between player ends of a court. Movement between ends is necessary for switching sides during the play of a game. To reduce redundancy, similar changes to ADAAG 4.1.3 (Accessible Buildings: New Construction) have not been included in this proposed rule.

4.1.2(2)(a) Exception

This exception provides that vertical access to raised boxing rings is not required. ADAAG 4.3 requires at least one accessible route to connect accessible buildings, facilities, elements, and spaces that are on the same site. Rope barriers surrounding the raised area are an integral part of boxing rings. The ropes prevent the installation of an accessible route without compromising the integrity of the barrier. Modifications to this design feature would fundamentally change the nature of the sport. Therefore, the Board is proposing an exception for vertical access for these unique spaces. To reduce redundancy, similar changes to ADAAG 4.1.3 (Accessible Buildings: New Construction) have not been included in this proposed rule.

4.1.2(3)

This exception provides that ADAAG 4.4, which sets requirements for protruding objects, does not apply to areas of sport activity. The sports subcommittee recommended that only exercise machines and gymnastic equipment be exempt from the requirements of ADAAG 4.4. However, in addition to exercise machines and gymnastic equipment, many other sports are played or practiced in facilities that contain protruding objects which are necessary for the play or practice of a sport. Examples include protrusions on obstacle courses and climbing walls. The exception for protruding objects is proposed because requiring most areas of sport activity to comply with ADAAG 4.4 would change the sport itself. To reduce redundancy, similar changes to ADAAG 4.1.3 (Accessible Buildings: New Construction) have not been included in this proposed rule.

4.1.2(4) Exception 1

Exception 1 provides that areas of sport activity are not required to comply with ADAAG 4.5, which sets requirements for accessible ground and floor surfaces. In proposing this exception, the Board has attempted to address accessibility to sports by balancing the conditions desired for sports facilities with the needs of persons with disabilities. Rules that govern a sport, or even common practices, often dictate the surface conditions of an area of sport activity. In examining the application of ADAAG to areas of sport activity, the sports subcommittee noted that ADAAG 4.1.2(4) and 4.1.3(3) require the entire surface of an accessible room or space to conform to ADAAG 4.5. Based on this, most sporting areas would be required to provide surfaces that are stable, firm, and slip-resistant and, where changes in level occur, ramps or other accessible means of vertical access. For example, beach volleyball, played on sand, and hockey, played on ice, would require stable, firm and slip-resistant surfaces. Requiring these surfaces to be accessible would fundamentally change these sports. Additionally, obstacle courses that have tires, beams, logs and other raised features would require accessible changes in level. The changes in level

are integral to the desired experience on an obstacle course.

Under the proposed guidelines, areas of sport activity are considered an accessible space and are required to be connected by an accessible route to other accessible spaces and elements on a site. While the Board considers it necessary to permit exceptions for accessible surfaces, including level changes, in areas of sport activity, the accessible route connecting these spaces is critical and is not exempted. The required accessible route can be located where it does not enter an area of sport activity. To reduce redundancy, similar changes to ADAAG 4.1.3 (Accessible Buildings: New Construction) have not been included in this proposed rule.

4.1.2(4) Exception 2

Exception 2 provides that in hoofed animal containment areas, the requirements of ADAAG 4.5 for stable, firm, and slip resistant surfaces do not apply. The provision is an exception to the surface requirement for accessible routes. In some facilities, including permanent fairgrounds, animal containment areas are open to the public for animal viewing, petting, and display. Absorbent material such as wood shavings, sawdust, and straw is provided for sanitary reasons. In most applications, a surface composed of such materials would not comply with the surface requirements of ADAAG 4.5

Additionally, surfaces that are not firm or stable are sometimes necessary to ensure the safety and health of the animals. A hard pavement, for example, can damage the tissue of a hoof. This exception is consistent with the sports subcommittee's recommendations that included input from designers and operators responsible for hoofed animal containment areas.

While the sports subcommittee recommended additional exceptions for the requirements for accessible routes and protruding objects in hoofed animal containment areas, the Board does not consider these necessary. Exception 2 only addresses those issues that conflict with sanitation and animal welfare. Since accessible routes can be located to avoid other features in livestock facilities where conflicts with the accessible route provisions may exist, the Board has not proposed any other exemptions. To reduce redundancy, similar changes to ADAAG 4.1.3 (Accessible Buildings: New Construction) have not been included in this proposed rule.

4.1.3(12)(c)

This section requires that 5 percent, but not less than one, of each type of locker be accessible. Lockers are required to comply with the requirements for storage in ADAAG. The sports subcommittee recommended that 5 percent of lockers in a locker room be accessible. The Board supports this recommendation and has also included a specific provision that one of each type of locker be accessible. Different types of lockers may include full-size and half-size lockers, as well as those specifically designed for temporary storage of various sports equipment.

4.1.3(13) Exception

This provision exempts exercise machines from the requirements of ADAAG 4.27 that controls and operating mechanisms must have clear floor space, be located within accessible reach ranges, and be operable with one hand and not require tight grasping, pinching, or twisting of the wrist. Where applicable, ADAAG 4.27 also requires that the force required to activate controls be no greater than 5 lbf.

Many of the requirements of ADAAG 4.27, as outlined above, may conflict with the operating characteristics of some exercise machines and equipment. Requiring compliance would significantly alter their design and function. While this section proposes an exception to the requirements of ADAAG 4.27, a new section 15.7.1 is proposed which includes a requirement for clear floor space for accessible exercise machines and equipment.

4.1.3(19)(c)

This section requires that wheelchair spaces be provided in team or player seating areas serving accessible areas of sport activity. ADAAG 4.1.3(19)(a) requires wheelchair spaces to be provided in spectator areas with fixed seating. This section requires wheelchair spaces to be provided in team or player seating areas in addition to the wheelchair spaces required for spectators. Where fixed seating is provided in team or player seating areas, no more than one to two wheelchair spaces are required based on the total number of seats provided.

Wheelchair spaces in the team seating area must be connected by an accessible route and be provided with companion seating. The requirement to provide an accessible route to the team seating area does not necessarily require the accessible route to be located on the area of sport activity. The requirement for companion seating in this application is intended to include other team members and personnel. The section does not propose changes to the technical requirements for accessible seating in ADAAG 4.33.2, 4.33.3, 4.33.4, and 4.33.5.

Professional and college baseball facilities often have recessed team seating areas, usually referred to as dugouts. A dugout has a rear wall, side walls and a roof. This configuration provides secure team seating, visibility for managers and a protected vomitory for players to safely enter and exit the area of sport activity. The recessed seating also allows for unobstructed spectator viewing over the team seating area.

The sports subcommittee recommended that the use of platform lifts be permitted in new construction to provide access from a recessed dugout to the playing field. The sports subcommittee cited the exception under ADAAG 4.1.3 (5) Exception 4(a) which permits the use of platform lifts when providing access to a ''performing area.'' The sports subcommittee was concerned that if spectator seating is raised, lines of sight could be adversely affected. For this reason, the sports subcommittee recommended that such sight line constraints may justify the use of a platform lift.

The proposed rule requires an accessible route to the team and player seating areas and to the area of sport activity. In a baseball facility, for example, an accessible route is required to connect a recessed dugout with the playing field. The Board does not agree with the sports subcommittee's recommendation that platform lifts be allowed to provide access to areas of sport activities and has not proposed an exception for a platform lift in new construction from a dugout. Providing ramp access facilitates more independent access for coaching and other management staff and others using playing fields for special events. Since it is technically feasible in new construction to design for ramp access, the Board does not believe that there is sufficient rationale for persons with disabilities to rely on a platform lift to gain access to a field.

Question 13: Several new minor league baseball stadiums have provided ramp access from the dugout to the field by extending the ramp parallel to the fence line along the spectator seats. The Board is interested in receiving information about this and other designs for providing ramp access from the dugout to the field. The Board also is interested in knowing whether these ramp designs have presented any safety concerns for players or have interfered with the play of the sport (e.g., catching foul balls).

4.1.3(21)

This section amends ADAAG 4.1.3(21) by requiring that where a public or common use dressing, fitting, or locker room is provided, the room must comply with ADAAG 4.35. An exception is included permitting five percent of dressing, fitting, or locker rooms to be accessible when they are provided in a cluster. Additionally, at least one of each type of room in each cluster is required to be accessible.

This section clarifies that locker rooms are required to be accessible, regardless of whether they contain dressing rooms. Additionally, dressing rooms not located within larger rooms or clusters are required to be accessible. A reference to locker rooms has been added and scoping included for non-cluster situations. For consistency with other ADAAG scoping sections, the Board has also changed the reference from rooms used ''by general public, patients, customers, or employees'' to ''public or common use'' rooms.

4.1.3(22)(a)

This section requires that where saunas or steam rooms are provided, each room must comply with ADAAG 4.36, which provides new technical provisions for accessible saunas and steam rooms.

4.1.3(22)(a) Exception

This section provides an exception where saunas or steam rooms are provided in a cluster. Five percent, but not less than one, of sauna and steam rooms for each type of use in each cluster of rooms must comply with ADAAG 4.36.

The sports subcommittee recommended that each sauna and steam room be accessible in new construction. However, the Board is aware that some facilities have clusters of small sauna rooms which are designed for one or two persons. Compliance with the proposed technical requirements in 4.36 without an exception could have the effect of eliminating such smaller units. Since saunas are similar in size to dressing rooms, the Board has proposed to address clustered sauna and steam rooms in the same manner as clustered dressing rooms in ADAAG 4.1.3(21).

4.35 Dressing, Fitting, and Locker Rooms

4.35.1 General

This section requires that locker rooms comply with ADAAG 4.35.

4.35.4 Bench

This section requires that accessible dressing rooms, fitting rooms, and locker rooms have a bench complying with ADAAG 4.37, which provides new technical provisions for accessible benches.

4.36 Saunas and Steam Rooms

4.36.1 General

This section requires that saunas and steam rooms required to be accessible comply with the technical provisions of ADAAG 4.36.

4.36.2 Turning Space

This section requires turning space complying with ADAAG 4.2.3 to be provided within a sauna or steam room. Turning space is required within a sauna or steam room so that the door to the room can be opened independently by all users. The sports subcommittee did not recommend that a turning space be required within a sauna or steam room. In part, the sports subcommittee's rationale was based on an additional recommendation for a signaling device that would permit individuals to indicate a need to exit the room. Many commenters to the ANPRM did not support the recommendation for a signaling device citing safety concerns when individuals may be trapped in a sauna or steam room. Commenters also indicated that the requirement for a signaling device may be too onerous for operators. The Board agrees and has not proposed a requirement for a signaling device. To be effective, such a device would require monitoring and a method for assuring it is functional at all times.

4.36.2 Exception

This exception allows the turning space in saunas or steam rooms to be temporarily obstructed by readily removable seats. This allows operators an option for smaller units designed for one or two persons.

Knowing the location of the readily removable seats will be important for both operators and users of the saunas and steam rooms. Several options are recommended for operators and designers including signage indicating the location of the removable seat or by incorporating information about the location of the seat into other general user information.

Question 14: The proposed accessibility guidelines for saunas do not require grab bars or other types of handholds. The Board is interested in whether some type of grab bar or handhold should be required to assist users when transferring from a wheelchair onto a bench in a sauna or steam room. Specific information on the location and types of handholds and grab bars recommended for this use is also requested.

4.36.3 Bench

This section requires that, where provided, benches in saunas and steam rooms must comply with ADAAG 4.37, which provides new technical provisions for accessible benches.

4.36.3 Exception

This exception allows the clear floor space required by ADAAG 4.37.1 at an accessible bench in saunas or steam rooms to be temporarily obstructed by readily removable seats. As previously discussed, being aware of the location of the removable seat either by signage or other user information is important for both operators and users.

4.36.4 Door Swing

This section provides that doors must not swing into the required clear floor space at an accessible bench in a sauna or steam room.

4.37 Benches

4.37.1 Clear Floor or Ground Space

This section requires that clear floor or ground space be provided and be positioned for a parallel approach to an end of the bench seat.

4.37.2 Size

This section provides technical criteria for accessible benches, including seat dimensions and back support. The seat on an accessible bench is required to be 20 to 24 inches deep and 42 inches long minimum. The bench is required to be fixed and provide back support which is 42 inches minimum in length and extend from a point two inches maximum above the bench to a point 18 inches minimum above the bench. These dimensions provide back support to approximately chest level on most adults. Back support may be achieved through locating benches adjacent to walls or by other designs that will meet the minimum dimensions specified.

4.37.3 Height

This section requires a bench seat to be 17 inches minimum to 19 inches maximum above the floor or ground. This height requirement is consistent with the bench height established in ADAAG 4.35.4 for benches located in dressing and fitting rooms.

4.37.4 Structural Strength

This section requires that allowable stresses not be exceeded for materials used when a vertical or horizontal force

of 250 lbs. is applied at any point on the seat, fastener, mounting device, or supporting structure.

4.37.5 Wet Locations

This section requires accessible benches, when installed in wet locations, to be slip-resistant and not accumulate water. This section is consistent with the requirements in ADAAG 4.35.4 for benches installed in conjunction with showers, swimming pools, and other wet locations.

15.7 Sports Facilities

15.7.1 Exercise Equipment and Machines

This section requires that at least one of each type of exercise equipment and machine be provided with clear floor space complying with ADAAG 4.2.4 and be served by an accessible route. The required clear floor space must be positioned for transfer or positioned so that the equipment can be operated by an individual seated in a wheelchair. The position of the clear floor space may vary greatly depending on the use of the equipment or machine. For example, to make a stationary bicycle accessible, clear floor space adjacent to the seat would be appropriate to allow for transfer. Clear floor space for a bench press machine designed for use by an individual seated in a wheelchair, however, will most likely be centered on the operating mechanisms.

Fitness facilities often provide a range of choices of equipment. For example, there are many different types of strength training machines and equipment. Each is designed to address a particular muscle group such as quadriceps, biceps, and abdominal muscles. Similarly, there are many types of cardiovascular exercise machines, such as stationary bicycles, rowing machines, stair climbers, and treadmills. At least one of each type of exercise equipment and machines must be served by an accessible route

This proposal is consistent with the recommendation of the sports subcommittee. The sports subcommittee recommended that accessible routes be provided to and around exercise equipment and machines. The sports subcommittee also noted that many pieces of exercise equipment and machines are not fixed, and therefore, are not within the scope of ADAAG. ADAAG applies to fixed equipment. Access to non-fixed equipment, however, is covered by the ADA when provided by a public entity or a public accommodation. The obligations of covered entities providing this equipment are established by the Department of Justice ADA regulations.

15.7.2 Bowling Lanes

This section requires at least five percent, but not less than one, of each type of bowling lane provided to be accessible. This requirement is consistent with other ADAAG provisions where multiple features are provided for the same use. Ten pin and duckpin bowling are among the different types of bowling lanes that may be provided in a bowling facility. Where team and player areas are provided in conjunction with accessible bowling lanes, ADAAG 4.1.3(19)(c) would apply and require accessible wheelchair spaces. Designers and operators have flexibility in the location of the required accessible lanes and seating areas. If fixed spectator seating is provided, ADAAG 4.1.3(19)(a) specifies the number of wheelchair spaces that must be provided as a part of a bowling facility spectator area.

15.7.3 Shooting Facilities

This section requires at least at least five percent of the total, but not less than one, of each type of fixed firing position provided to be accessible. Examples of different types of firing positions include, but are not limited to, positions having different admission prices, positions with or without weather covering or lighting, and different shooting events the fixed firing position is intended to support. Events include argon, muzzle loading rifle, small bore rifle, high power rifle, bulls eye pistol, action pistol, silhouette, trap, skeet, and archery (bow and crossbow).

15.7.3.1 Fixed Firing Position

This section requires that an accessible fixed firing position contain a turning circle at least 60 inches in diameter that has a slope not steeper than 1:48 in all directions. A turning circle is needed at accessible firing positions to ensure sufficient maneuvering space for aiming.

Swimming Pools, Wading Pools, and Spas

The sports, places of amusement, and outdoor developed areas subcommittees each provided recommendations in this area. The recommendations from these subcommittees were fairly consistent; however, there were some differences. For example, the sports subcommittee recommended that the methods of providing access into the water be limited to ramps, lifts, or combination stairs-transfer tiers. The places of amusement subcommittee provided the identified methods as examples, but did not limit accessible alternatives to those identified. The places of amusement subcommittee recommended that handrails be required on only one side of ramps, while the sports subcommittee recommended 22 inches clearance between handrails. The outdoor developed areas subcommittee recommended that the need for handrails at ramps, for example, be determined by the facility designer.

Comments to the ANPRM generally agreed with the recommendations of the three subcommittees in terms of requiring one means of access into the water. Many commenters recommended that more specific technical specifications would be necessary to ensure compliance and reduce confusion.

In October 1995, the Board sponsored a research project on swimming pool access. The project was conducted by the National Center on Accessibility at Indiana University. The project included an extensive literature review, telephone surveys of persons with disabilities, telephone surveys of pool operators and on-site testing of various means of accessing the water. Based on this research, the Board received additional information on the specific designs and requirements for providing safe and independent access into the water. The results of the project also supported many of the initial recommendations of the subcommittees. Based on this research and the information provided by the subcommittees, the Board is proposing accessibility guidelines for accessible entry and exit to and from the water.

In addition to the input received from the Board sponsored research project, significant input has also been provided by the ANSI/NSPI–1 Public Pool Standard Committee. This standard is currently under revision. With a parallel development process occurring for these standards, diverse input was received from pool designers and operators on accessibility guidelines for people with disabilities. The Board has made extensive efforts to maintain consistency between the ANSI/NSPI–1 standard and ADAAG. The Board will continue its efforts to seek input and achieve harmonization with the ANSI/NSPI–1 standard.

15.8.1 Swimming Pools

This section requires that at least two means of entry and exit be provided for each public and common use swimming pool. A sloped entry or lift must be the primary means of access. The secondary means of access is not permitted to duplicate the primary means and also allows transfer walls, transfer systems,

stairs, or moveable floors as a means of access. An exception permits swimming pools with less than 300 linear feet of swimming pool wall to have only one means of access, but that means of access must be either a lift or sloped entry.

This section is generally consistent with the recommendations of the subcommittees and is supported by the Board sponsored research project. Sixty percent of the people with disabilities interviewed during the research project had used a pool during the previous year, and most, once a month. Of those individuals, 99 percent indicated that one or more means of access should be required at each pool. The need for more than one means of pool access was also supported by pool operators who participated in the study. At least one means of access was already being provided at 73 percent of the pools surveyed.

No one means of access will fully meet the needs of all persons with disabilities. However, certain means of pool access provide independent operation to a broader range of people. These means include swimming pool lifts and sloped entries. Other means of access such as a transfer wall, transfer system, stairs, and moveable floors provide access for some people with disabilities. For example, stairs with handrails provide support for individuals who walk short distances and transfer systems serve individuals who prefer to transfer into the water without the use of a mechanical lift. When these means are combined with a pool lift or sloped entry, they serve a larger segment of the population of individuals with disabilities. For these reasons, larger pools, those with more than 300 linear feet of pool wall, are required to have at least two means of entry and exit to a pool. In larger swimming pools, multiple access points provide for greater safety and convenience to users, allowing some choice in methods of entering or exiting the pool.

15.8.2 Wading Pools

This section requires at least one accessible means of entry to be provided in wading pools. Acceptable means of entry are sloped entry, transfer wall, or transfer system. Unlike swimming pools, the size and depth of wading pools limits the options for access into the water. For example, the ANSI/NSPI–1 Committee is expected to require wading pool depths to be limited to 18 inches maximum. Where wading pools are less than 18 inches deep, a pool lift cannot be used.

Question 15: It has been suggested to the Board that it is inappropriate to require a means of access into a wading pool because the height of transfer walls and other transfer systems are considered to be hazardous to children. Based on these concerns, should the Board consider exempting these areas?

15.8.3 Spas

This section requires at least one accessible means of entry into spas. The means of entry must be a lift, transfer wall, or transfer system. Like a wading pool, size and depth limitations prohibit the use of certain means of entry into a spa. While a swimming pool lift is an option for a spa, a sloped entry may significantly impact size and designs for water containment.

An exception has also been added to address facilities where spas are provided in a cluster. The exception allows for five percent, but not less than one, in each cluster to be accessible. This application is consistent with the other requirements in ADAAG where multiple elements of the same type are clustered.

15.8.4 Swimming Pool Lifts

This section provides technical provisions for swimming pool lifts. The provisions provide specifications for the necessary clear deck space and seat orientation to ensure usability for persons with disabilities.

15.8.4.1 Seat Location

This section requires the centerline of the seat, when in the raised position, to be located over the deck and 20 inches minimum from the edge of the pool. The position of the lift seat is important for ease of operation and for safety. The location in relationship to the edge of the pool is especially important to facilitate safe transfers. The 20 inch minimum distance from the edge of the pool, allows space to transfer over the deck. Unsafe conditions created by locating the seat either over the water or too close to the deck edge were observed during the Board sponsored research project and were identified by research subjects as problems affecting access.

15.8.4.2 Clear Deck Space

This section requires a clear deck space on the side of the seat opposite the water. The space is measured from the seat. Clear space is required to be 30 inches wide minimum and 48 inches long minimum from a line located 12 inches behind the intersection of the seat and its back. The clear space is specified in relationship to the seat to allow unobstructed space for either side or diagonal transfer. The space must be clear and free of deck braces that can interfere with transfer. Figure 71 shows the clear floor space, its position, and dimensions.

15.8.4.3 Seat Height

This section requires the height of a lift seat to be 16 inches minimum to 18 inches maximum above the deck floor. This height is to be measured from the deck to the top of the seat surface when the seat is in the raised (load) position. In addition to the clear deck space, lift seat height is also critical for transfer from a wheelchair or other mobility device. Several ADAAG provisions such as water closet seat height and bench height establish a transfer height of 17 to 19 inches for adults. Information obtained from the Board sponsored research project supported the heights established for other elements designed for transfer. A slight departure from this provision has been proposed to address the needs of children transferring to a lift seat. ADAAG 4.16.7 (Water Closets for Children) permits 11 inches minimum to 17 inches maximum to the top of a toilet seat height. An adjustable seat may accommodate the need for varying transfer heights for users of all ages.

15.8.4.4 Seat Width

This section requires a lift seat to be 16 inches wide minimum. This dimension is consistent with seat widths established for other seating elements and will accommodate a range of users. Each of the seats tested during the Board sponsored research project either met or exceeded this minimum requirement.

Question 16: Different types of seats are available on swimming pool lifts. The types include flexible sling seats, plastic or fiberglass seats, and larger stretcher designs that accommodate the entire body. Persons with disabilities involved in the Board sponsored research project expressed interest in all types of seats. The Board has not proposed any special technical provisions for the material of the seat. Should a certain type of seat be required on swimming pool lifts?

15.8.4.5 Footrests and Armrests

This section requires footrests to be provided and to move in conjunction with the seat. Many adult legs will extend beyond 16 to 18 inches below the lift seat. Without a footrest, users' feet will drag across the deck, potentially causing injury.

This section also requires that, if provided, the armrest opposite the water be removable or fold clear of the seat when the seat is in the raised (load)

position. This clearance is necessary to allow for transfer from a wheelchair or other mobility device. Armrests are not required on the lift seats because there is insufficient information to determine their usefulness and optimal design criteria. However, when provided, armrests may not obstruct transfer.

Question 17: Should armrests be required on swimming pool lifts? If so, please provide specific information regarding the appropriate size and location.

15.8.4.6 Operation

This section requires that a pool lift be capable of unassisted operation from both the deck and water levels. ADAAG requires that platform lifts provide unassisted operation. The need for independence is not diminished by the fact that the user operates a swimming pool lift. A large percentage of the respondents in the Board sponsored research project noted the importance of using a lift without assistance. Pool facility staff also indicated the importance of a device or design that could be used without pool staff assistance. Lifts that are operated manually do not offer independent use because they require an attendant to operate a crank which is unreachable by the lift user. In most cases, power-operated lifts can offer independent use.

This section also requires that controls and operating mechanisms be unobstructed when a lift is in use. This is also important for independent operation. Controls and operating mechanisms may not require continuous manual pressure for operation and must comply with ADAAG 4.27.4 which requires that operating controls not require tight grasping, pinching, or twisting of the wrist. Additionally, the controls may not require more than 5 lbf to operate. This is consistent with requirements for other accessible elements with operating mechanisms.

15.8.4.7 Submerged Depth

This section requires that a pool lift be designed so that the seat will submerge to a water depth of 18 inches minimum. This depth is necessary to ensure buoyancy for the person on the lift seat once in the water. Data relating to buoyancy levels was provided through the Board sponsored research project. A diverse group of persons with disabilities were tested to establish minimum levels of buoyancy with a sloped entry and a lift.

15.8.4.8 Lifting Capacity

This section requires that single person pool lifts provide a minimum weight capacity of 300 lbs. Lifts also must be capable of sustaining a static load of at least three times the rated load. ANSI A17.1 for platform lifts (Rule Number 2002.7A) requires a minimum weight capacity of 250 lbs. for single seat lifts. Data from the Board sponsored research project indicated that the 250 lbs. may be insufficient. Swimming pool lifts used at two of the facilities for on-site testing were replaced because of weight damage. Breakdowns and injuries due to insufficient weight capacity of pool lifts were cited in the telephone interviews of pool facility staff and people with disabilities. Based on this information, the weight capacity is proposed at 300 lbs. for single person lifts, with the capability of sustaining a static load of at least three times the rated load. This requirement was also supported by several pool lift manufacturers who provided advice during the Board sponsored research project.

15.8.5 Sloped Entries

This section provides technical provisions for sloped entries. These proposed technical provisions provide requirements for more gradual sloped entries, commonly referred to as beach entry, zero grade entry, or in-the-water ramps. Due to the similarities of this type of entry with ramps used in other buildings and facilities, provisions in ADAAG have been referenced accordingly.

The use of an aquatic chair or other type of water resistant chair is important for use of a pool ramp and other sloped entries to gain access into the water. Use of personal wheelchairs or power chairs in the water can create safety and health hazards. Provisions regarding aquatic chairs cannot be included in ADAAG. The provision of such chairs, however, may be subject to the Department of Justice ADA regulations.

15.8.5.1 Sloped Entries

This section requires sloped entries designed to provide access into the water to comply with most of the provisions of ADAAG 4.3 (Accessible Route). Where a sloped entry has been designed to provide access into the water, it must provide an accessible route. This requires that when the slope of the entry exceeds 1:20, the provisions of ADAAG 4.8 (Ramps) are applied.

15.8.5.2 Submerged Depth

This section modifies the requirements of ADAAG 4.3 and requires sloped entries designed to provide access into the water to extend to a depth of 24 inches minimum to 30 inches maximum below the stationary water level. This requirement is consistent with the submerged depth requirement for swimming pool lift seats in the water. As indicated in 15.8.4.7, the Board sponsored research project provided data related to buoyancy levels necessary for a variety of subjects with disabilities. Mean buoyancy and mean seated height were calculated to determine the buoyancy point and water depth at which subjects became buoyant or floated off their wheelchairs. While there was limited testing with children, anthropometric data indicated that a water depth exceeding 30 inches would be over the mouth and nose of an average 9 year old child.

This section also requires that at least one landing be located 24 inches minimum to 30 inches maximum below the stationary water level. The requirement for landings applies to sloped entries when the slope exceeds 1:20 and the entry must comply with the provisions for ramps. Beach access or zero grade entries do not have slopes in excess of 1:20 and are not required to have landings. When beach access or zero grade entry is provided, the entry must extend to a depth of 24 inches minimum to 30 inches maximum below the stationary water level.

Since wading pools are less than 24 to 30 inches deep, an exception provides that sloped entries are only required to extend to the deepest part of the wading pool.

15.8.5.3 Handrails

This section requires handrails on all sloped entries. The clear width between handrails must be between 33 inches minimum and 38 inches maximum. Information from on-site testing and interviews in the Board sponsored research project indicated a need for handrails on both sides of a sloped entry, regardless of whether mobility aids were used. Pool operators also indicated that two handrails were most often found on pool ramps. Further, while a gradual sloped entry (beach or zero grade entry) increased usability for many individuals, handrails were especially important given the travel distance to sufficiently deep water. Handrails on both sides of ramps are necessary for individuals with limited use of one arm. In light of concerns regarding underwater obstructions, an exception is provided for handrail extensions required at the bottom landing of a pool ramp.

15.8.6 Transfer Walls

This section provides technical provisions for transfer walls. Transfer walls provide a surface at the edge of a

pool for transfer into the water. Transfer walls may be elevated walls at the pool edge or lowered sections of the deck. A transfer wall is a secondary means of access into the water and must be combined with a lift or sloped entry. A transfer wall is proposed to be a secondary, not a primary means of access, because this method of entry requires significant upper body strength.

15.8.6.1 Clear Deck Space

This section requires clear deck space of 60 inches minimum by 60 inches minimum to be provided at the base of a transfer wall. Clear space is needed to allow individuals to transfer and maneuver from their wheelchair or mobility device. Where one grab bar is provided on a transfer wall, the clear deck space must be centered on the grab bar. This allows sufficient space for a transfer on either side of the grab bar. Where two grab bars are provided, the clear deck space must be centered on the clearance between the grab bars. This requirement provides sufficient space between grab bars for transfer. Section 15.8.6.5 provides additional requirements for grab bars, including spacing.

15.8.6.2 Height

This section requires the height of transfer walls to be 16 inches minimum to 18 inches maximum measured from the deck below. The height requirement is consistent with proposed requirements for pool lift seat heights at 15.8.4.3 and similarly addresses the needs of some children.

15.8.6.3 Wall Depth

This section requires the depth of a transfer wall to be 12 inches minimum to 16 inches maximum. As a minimum, the 12 inch depth of the transfer wall provides adequate space for a person to comfortably sit on the surface of the wall. The wall depth is limited to 16 inches maximum so that users are not required to traverse the wall to transfer to the water.

15.8.6.4 Surface

This section requires the surface of a transfer wall to be free of sharp edges. This is necessary to reduce the potential for injury when individuals move across the surface of the wall. Sharp edges may result in abrasions and other injuries.

15.8.6.5 Grab Bars

This section requires at least one grab to be provided on a transfer wall. Similar to other elements which require transfer, a grab bar is necessary to assist users to transfer to and from the transfer wall. Grab bars also facilitate transfer to and from the water. Grab bars are required to be perpendicular to the pool wall and extend the full depth of the wall. The top of the gripping surface must be 4 inches maximum above the wall. Where two grab bars are provided, clearance between grab bars must be 22 inches minimum. Where one grab bar is provided, clearance must be 22 inches minimum on both sides of the grab bar. Grab bars must comply with ADAAG 4.26.

15.8.7 Transfer Systems

This section provides technical provisions for transfer systems used as a means of access into the water. A transfer system consists of a transfer surface, combined with a series of transfer steps that descend into the water. Users must transfer from their wheelchair or mobility device to a surface and continue transferring from step to step.

Transfer systems have been used in play areas for the past several years to provide access to elevated structures. While it has been an important method for some children to gain access to an elevated play structure, it is limited to use by persons who are able to transfer, with or without assistance. Transfer systems are not considered a primary means of access because they require sufficient upper body strength to transfer independently, or assistance must be provided. A transfer system may only be used as a secondary means of access in a larger pool with 300 linear feet or more of pool wall and must be combined with either a lift or a sloped entry.

15.8.7.1 Transfer Platform

This section requires a transfer platform to be 19 inches deep minimum by 22 inches wide minimum. Transfer platforms must be provided at the head of each transfer system. The transfer platform is the first point of transfer from a wheelchair or mobility device before entering the water. The minimum width and depth is necessary to comfortably sit on the platform.

15.8.7.2 Clear Deck Space

This section requires a clear deck space of 60 inches wide minimum by 60 inches long minimum with a slope not steeper than 1:48 at the base of the transfer platform. A level unobstructed space at the base of the transfer platform, centered along the 22 inch side, is necessary to facilitate a transfer from a wheelchair or mobility device. The clear space requirement is consistent with spaces also needed at the base of a transfer wall.

15.8.7.3 Height

This section requires the height of transfer platforms to be 16 inches minimum to 18 inches maximum measured from the deck. This height requirement is consistent with other elements used to provide access into the water.

15.8.7.4 Transfer Step Risers

This section requires transfer step risers to be 7 inches maximum in height. It also requires that transfer step risers extend to a water depth of 18 inches minimum. Based on the Board sponsored research project, a 7 inch maximum step riser was considered to be a comfortable transfer height when moving from step to step. The 18 inch minimum depth requirement is consistent with the buoyancy data obtained from on-site testing completed during the Board sponsored research project.

15.8.7.5 Surface

This section requires the surface of a transfer system to be free of sharp edges. Similar to other transfer surfaces, this is necessary to reduce the potential for injury. Sharp edges may result in abrasions and other injuries.

15.8.7.6 Size

This section requires each transfer step to have a tread depth of 12 inches minimum and 17 inches maximum. A 22 inch minimum tread width is also required. A minimum tread depth and width is necessary to ensure adequate space for movement on transfer steps.

15.8.7.7 Grab Bars

This section requires one grab bar on each step to be located so that the grab bar does not obstruct transfer at either a transfer platform or a transfer step. The top of the gripping surface must be 4 inches maximum above each step. Grab bars must comply with ADAAG 4.26.

15.8.8 Pool Stairs

This section provides technical provisions for pool stairs used as a means of entry and exit to the water. Stairs may only be used as a secondary means of access in a larger pool with 300 linear feet or more of pool wall and must be combined with either a lift or a sloped entry.

15.8.8.1 Pool Stairs

This section requires pool stairs to comply with ADAAG 4.9 (Stairs), except as modified. ADAAG 4.9 has been referenced since stairs in pools are used in a similar manner as stairs elsewhere. Unlike transfer steps which are

designed for individuals to use in a seated position, pool stairs are used by individuals who walk.

15.8.8.2 Handrails

This section requires the width between handrails to be 20 inches minimum to 22 inches maximum. To reduce the potential for underwater protrusions, handrail extensions required by ADAAG 4.9.4 are not required at the bottom landing serving a pool stair. The handrail width provides users who are ambulatory the opportunity for support. During the Board's work with the ANSI/NSPI–1 Public Pool Standard Committee, pool designers supported this requirement based on their experience and preferences from users. The width requirement is similar to the grab bar configuration required in ADAAG Figure 30(b) (Alternate Stalls).

15.8.9 Moveable Floors

This section requires that the pool coping comply with ADAAG 4.5.2 where a moveable floor connects with a pool deck. Moveable floors in pools are designed in several ways. In some cases, the entire pool floor or only a section of the floor is raised or lowered to the desired depth. Hydraulic pistons are used to slowly move the floor. When the floor is raised to deck level, people can either walk or roll their wheelchair or mobility device onto the pool floor and then be lowered to the desired water depth.

The ANSI/NSPI/WWA–9 Committee is developing new standards for public pools and water sources for aquatic recreation facilities. This includes wave pools, activity pools, leisure rivers, and other facilities often found in water parks. This standard will not address conventional swimming pools, pools for competitive aquatic sports, and wading pools which are covered by ANSI/NSPI–1. ADAAG will apply to all swimming pools and aquatic recreation facilities. The proposed guidelines provide designers with a choice of options of how to provide access. For example, while moveable floors may not be appropriate for a wave pool, sloped entries have been used as a means of access into water. Designers and operators can select the means of access appropriate to the design and function of the pool.

Question 18: Are there specific features within aquatic recreation facilities where it is technically infeasible in new construction to comply with the proposed requirements in 15.8? If so, the Board is interested in specific examples of why this is not feasible, along with alternatives to providing access for persons with disabilities.

Other Issues

The sports subcommittee recommended that separate accessible unisex toilet and changing facilities be provided in sports facilities. This was based on the concern that some individuals with disabilities use the assistance of persons of the opposite sex and require a toilet or bathing facility that accommodates both persons. The Board is aware of this concern and has worked with model building code organizations to develop scoping provisions for accessible unisex toilet facilities. These provisions will likely be incorporated into State and local building codes. It is anticipated that this would be required in assembly and mercantile occupancies where an aggregate of six or more fixtures (e.g., toilets for either men or women) are provided. Assembly occupancies include, but are not limited to, theaters, museums, nightclubs, stadiums, amusement parks, restaurants, health clubs, and transportation facilities.

Question 19: Multi-head showers, often referred to as ''gang'' showers, can be designed to meet the requirements in ADAAG 4.21, which requires grab bars on three sides. Is this location of the grab bars useful in multi-head showers? If not, what design would be most useful?

Question 20: The Board has not proposed exceptions for existing conditions where recreation facilities are altered. Some exceptions will be necessary to address elements and features where unique conditions prevent accessibility according to new construction requirements. Commenters are encouraged to recommend exceptions where necessary. Please provide an explanation of the problem and the solution, including costs and benefits associated with recommended exceptions.

Question 21: Some wheelchairs designed for wheelchair sports have a longer or wider wheelbase than those designed for everyday use. The Board is interested in obtaining more information about the dimensions of sports wheelchairs and any issues related to their use in sports facilities complying with ADAAG. Do existing ADAAG requirements for door widths, maneuvering clearances, or clear floor space allow for use of such wheelchairs? If not, please provide specific information regarding problems experienced and how these problems have been addressed.

Question 22: The Department of Justice's ADA regulations require that public entities and places of public accommodation ensure effective communications so that persons with visual and hearing impairments can obtain information about programs, services, activities, and facilities. The Board has examined sports facilities to determine if ADAAG adequately addresses access to communications in various types of sports facilities. There are areas in sports facilities where information is communicated to players, coaches, and spectators via fixed communications systems. Examples include screens displaying scoring information and public address announcements. The Board seeks further information on specific concerns not currently addressed by ADAAG regarding communication accessibility in recreation facilities. The Board wishes to explore accessible communication technologies that are fixed building elements. Please also provide information about accessibility issues related to fixed, inaccessible communication systems.

Question 23: On April 30, 1998, the Access Board published proposed accessibility guidelines for play areas (63 FR 24080). During the comment period, several commenters requested clarification on the application of the proposed accessibility guidelines to water play components. Some play components have mechanisms that squirt water. In some facilities, including neighborhood parks and other recreation facilities, these water play components are not located in a swimming or wading pool and, therefore, would be considered ground-level play components. Sections 16.1.1(1) and 16.1.5 of the proposed accessibility guidelines for play areas would require one of each type of ground-level play component to be accessible and be connected by an accessible route. In other facilities, water play components are located in swimming and wading pools. For example, wading pools designed for small children often include water play components. Section 15.8.1 of this proposed rule would require an accessible means of entry into each public use and common use swimming pool. Should the Board develop additional provisions to more specifically address access to these water play components? If so, please provide specific examples of the type of guidance required.

Regulatory Process Matters

Executive Order 12866: Regulatory Assessment

This proposed rule is a significant regulatory action under Executive Order 12866 and has been reviewed by the Office of Management and Budget. The Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget considers the proposed rule to be a major rule under the Congressional Review Act (5 U.S.C. 801 *et seq.*). The Board has assessed the potential costs and benefits of the rule. For each type of facility covered by the rule, the Board has analyzed data on the number of existing facilities, number of new facilities projected to be built each year, current design and construction practices, construction costs, and any additional costs expected to result from the rule. For some facility types, sufficient data was not available to conduct a complete analysis. The data is summarized below. The Board invites comment on the data and seeks additional data as indicated below.

Amusement Rides

There are approximately 200 amusement and theme parks in the United States. These facilities operate a variety of amusement rides, whose costs typically range from $90,000 to $600,000. Theme park rides and roller coasters are usually unique and cost millions of dollars. There is limited data available on capital investment for new amusement rides. In a trade association survey, 10 amusement facilities projected capital investments totaling $267 million in 1997, and approximately the same number of facilities projected $140 million in 1998. These figures include the construction of concession stands and other facilities, in addition to amusement rides. Based on this limited data and assuming an average cost of $345,000 for an amusement ride, it is estimated that there are 590 new rides annually. This represents 3 new rides for existing amusement facilities each year.

The Board seeks additional data from owners and operators of amusement rides on the number of new amusement and theme parks expected to be constructed in the next five years, the number and types of rides expected to be provided at these new facilities, the number and types of rides expected to be added each year to existing facilities, and the costs of the rides. The Board also seeks information on current design and construction practices for providing access to new rides.

Industry sources estimate that the cost for providing a wheelchair space on an amusement device ranges from $4,500 to $150,000 and the cost for providing a transfer seat ranges from $15,000 to $100,000. Industry sources further estimate that the cost for providing a wheelchair storage space for each transfer seat ranges from $0 to $5,000 for ground-level load and unload areas, and from $20,000 to $60,000 for elevated load and unload areas. Some of these estimates appear to be based on retrofitting existing rides to provide access. Designing new rides to provide access from the conceptual phase onward usually results in much less cost. For example, incorporating a 30 inch by 48 inch minimum clear floor space for storing a wheelchair in the design of an elevated load and unload area should cost a lot less than $20,000 to $60,000. The Board seeks additional data on the costs for providing wheelchair spaces and transfer seats on amusement devices where these designs are incorporated in the conceptual phase of the ride.

Boating Facilities, and Boat and Ferry Docks

There are approximately 10,375 marinas and 1.1 million boat slips in the United States. New boating facilities incorporate wider piers and pier clearances in their designs and the proposed provision for accessible boat slips is not expected to result in any increase in costs. The proposed provision for gangways connecting floating platforms will have a cost impact. The cost will depend on the size of the facility and water level change. Small facilities and facilities with high water level changes are permitted to exceed a 1:12 maximum slope under the conditions specified in Table 15.2.1. Cost estimates were prepared by engineers for constructing gangways for various water level changes with and without maintaining a 1:12 maximum slope to determine the incremental costs resulting from the proposed rule. Actual construction costs in a competitive bid environment may vary up to 50 percent above or below these engineering estimates. Cost estimates were prepared for four regions of the country and national averages used. The incremental costs were compared to the total construction costs for boating facilities, which are assumed to be $40 per square foot. Land acquisition is not included in the construction costs.

For a boating facility with 10 slips and 2,450 square feet of fixed and floating piers, the gangway would have to maintain a 1:12 maximum slope for water level changes up to 2.5 feet. The total construction cost for the facility is estimated at $99,600. The incremental cost for maintaining a 1:12 maximum slope when the water level change is 2.5 feet is $1,825, or 1.8 percent of the total construction costs.

For a boating facility with 100 slips and 20,550 square feet of fixed and floating piers, the gangway would have to maintain a 1:12 maximum slope for water level changes up to 12.5 feet. The total construction cost for the facility is estimated at $822,000. The incremental cost for maintaining a 1:12 maximum slope varies directly with the water level change. For a 2.5 feet water level change, the incremental cost is $1,825 or 0.2 percent of the total construction cost; for a 5 feet water level change, the incremental cost is $12,769 or 1.5 percent of the total construction cost; for a 7.5 feet water level change, the incremental cost is $42,881 or 5.2 percent of the total construction cost; for a 10 feet water level, the incremental cost is $62,956 or 7.6 percent of the total construction cost; and for a 12.5 feet water level change, the incremental cost is $110,406 or 13.4 percent of the total construction cost.

The Board seeks data from owners and operators of boating facilities on the number of new boating facilities with floating platforms expected to be constructed in the next five years, the size of the facilities (total square feet of fixed and floating piers), water level changes at the facilities, and costs of the facilities.

Boat and ferry docks that consist of floating platforms also would have to comply with the gangway provision. The Board seeks the same data for boat and ferry docks as requested above for boating facilities.

Fishing Piers and Platforms

There is limited data available on the number of fishing piers and platforms in the United States. The National Marine Fisheries Service lists 3,000 saltwater fishing sites on the East Coast and Gulf of Mexico, excluding Florida and Texas. These sites include piers, beaches, jetties, marinas, and bridges. The Army Corps of Engineers has constructed 413 fishing piers and docks which are usually operated by public and private entities.

New fishing facilities have wider piers and platforms and the proposed provisions for clear space and maneuvering space are not expected to result in any increase in costs. The proposed rule does not require new fishing facilities to provide railings. However, if railings are provided, the proposed rule sets a maximum height for a portion of the railings and also

requires edge protection to extend at least 2 inches above the ground or deck surface. The cost of this requirement is negligible when compared to the total cost of the facility.

New fishing facilities that consist of floating platforms will have to comply with the same maximum slope requirements for gangways as do boating facilities with floating platforms. The Board seeks data from owners and operators of fishing facilities on the number of new fishing facilities with floating platforms expected to be constructed in the next five years, the size of the facilities (total square feet of fixed and floating piers), water level changes at the facilities, and costs of the facilities.

Golf

There are approximately 11,300 public and municipal golf courses in the United States. Based on the number of new golf courses opened between 1992 and 1997, the rate of new construction is projected at 3.8 percent, or about 430 new golf courses annually. Most recently constructed golf courses meet the proposed provisions for a golf car passage, teeing grounds, putting greens, and driving ranges and practice tees. Industry sources have indicated that the proposed rule is expected to have minimal to negligible cost impact on the construction of new golf courses.

Miniature Golf

There are 3,000 to 4,000 miniature golf courses in the United States. Miniature golf course lots vary considerably in size. There is a trend to design courses with elevated holes. One designer typically uses 29,000 square feet for an 18 hole course, with an average hole size of 360 square feet. Land costs range from $3 to $15 per square foot. Holes and paths typically consist of concrete or brick, and cost from $1 to $3 per square foot. The Board seeks additional data on the number of new miniature golf courses expected to be constructed in the next five years, the size of the facilities, and total project costs, including land, materials, and labor.

The cost impact of the proposed rule will vary based on the elevation change and hole design of the miniature golf course. The proposed rule would require at least 50 percent of elevated holes to be accessible. The proposed rule also allows holes to be designed so that wheelchair users can hit the ball from an accessible route adjacent to the hole instead of providing an accessible route through the hole. One designer estimates that it will cost 5 percent to 45 percent more to connect holes with an accessible route. Designers will plan miniature golf courses differently based on accessibility requirements. The Board seeks information on designs that will comply with the proposed rule, meet the objectives of miniature golf course operators, and make optimum use of space. Commenters should identify differences in space usage from current design practices and the method for estimating additional costs attributed to the proposed rule.

Sports Facilities

The proposed rule adds several exceptions to existing ADAAG provisions for certain sports facilities. There is no cost associated with these exceptions. The proposed rule also includes provisions for exercise equipment and machines, bowling lanes, shooting ranges, sauna and steam rooms, and locker rooms. There are approximately 13,800 health and fitness clubs; 6,700 bowling centers; and 6,400 shooting ranges in the United States. In addition, hotels and motels, schools, colleges and universities, and public parks and recreation programs often have exercise equipment and machines, sauna and steam rooms, and locker rooms as part of their facilities. Industry sources have indicated that the proposed rule is expected to have negligible impact on the construction of these new sports facilities.

Swimming Pools, Wading Pools, and Spas

There is no data available on the number of commercial swimming pools in the United States. One manufacturer estimates that about 2,500 new commercial swimming pools are constructed each year. Most commercial swimming pools have less than 300 linear feet of pool wall. Schools, colleges and universities, and public parks and recreation programs usually construct pools having more than 300 linear feet of pool wall. Assuming a unit cost of $142 per square foot, a 5,000 square foot pool would cost $.7 million and a 10,000 square foot pool would cost $1.4 million. The Board seeks additional data on the number of commercial swimming pools constructed each year, the size of the pools, and their costs. The Board also seeks information on the extent to which an accessible means of entry is currently provided to newly constructed pools.

The costs for the various accessible means of entry to a swimming pool range from $2,860 to $7,500 for swimming pool lifts; $8,282 to $11,000 for sloped entries; $3,600 to $4,000 for transfer walls; $864 to $3,000 for transfer systems; $2,413 to $3,000 for pool stairs; and $200,000 to $500,000 for movable floors.

The proposed rule would require swimming pools which have less than 300 linear feet of pool wall to provide at least one accessible means of entry to the pool. If a swimming pool lift costing $5,200 is used, the additional cost would be 0.7 percent of the total construction cost for a 5,000 square foot pool. Assuming that 80 percent of new pools have less than 300 linear feet of pool wall, it would cost $10.4 million annually to provide swimming pool lifts for these 2,000 new pools.

The proposed rule would require swimming pools which have 300 linear feet or more of pool wall to provide at least two accessible means of entry to the pool. If a swimming pool lift costing $5,200 and a transfer system costing $2,400 are used, the additional cost would be 0.5 percent of the total construction cost for a 10,000 square foot pool. Assuming the other 20 percent of new swimming pools have 300 linear feet or more of pool wall, it would cost another $3.8 million annually to provide swimming pool lifts and transfer systems for those 500 new pools.

The proposed rule also would require an accessible means of entry to wading pools and commercial spas. The Board seeks data on the number of new wading pools and commercial spas constructed each year and their costs. The Board also seeks information on the means currently used to provide access to wading pools and commercial spas, and the costs for providing access.

Benefits

The proposed rule is issued pursuant to the Americans with Disabilities Act (ADA) to eliminate discrimination against individuals with disabilities. In enacting the ADA, Congress expressly found that architectural, transportation and communication barriers result in discrimination against individuals with disabilities. The proposed rule will ensure that new recreation facilities are readily accessible to and usable by individuals with disabilities. As new recreation facilities are designed and constructed to be accessible, individuals with disabilities will enjoy the benefits of these facilities. Operators of recreation facilities will experience increased usage and patronage by individuals with disabilities. The proposed rule also establishes the basis for uniform standards for accessibility to recreation facilities. Designers and manufacturers will have a clear and consistent set of standards with which to work. Establishing uniform standards

for accessibility has resulted in innovation and new designs that are cost effective and beneficial to everyone.

Regulatory Flexibility Act: Initial Regulatory Flexibility Analysis

The Board has prepared this initial regulatory flexibility analysis for purposes of the Regulatory Flexibility Act to describe the impact of the proposed rule on small entities.

Reason for, Objectives of, and Legal Basis for Proposed Rule

This proposed rule is issued under the authority of the Americans with Disabilities Act (ADA), which requires the Board to issue guidelines to ensure that buildings, facilities, and vehicles are accessible, in terms of architecture and design, transportation, and communication, to individuals with disabilities. Recreation facilities are specifically covered by the ADA. In enacting the ADA, Congress expressly found that individuals with disabilities continually encounter various forms of discrimination, including the discriminatory effects of architectural, transportation, and communication barriers. Among the purposes of the ADA is to provide clear and consistent standards addressing discrimination against individuals with disabilities.

The Board initially issued the Americans with Disabilities Act Accessibility Guidelines (ADAAG) in 1991. ADAAG contains scoping provisions and technical specifications for designing parking areas, entrances, toilet rooms, and other elements and spaces that typically comprise a building and its site so that individuals with disabilities will have ready access to and use of the facility. Amusement rides, boating and fishing facilities, golf courses, miniature golf, sports facilities, swimming pools, wading pools, and spas have some unique features which are not adequately addressed by ADAAG. Additional guidelines are needed for providing access to these features. The proposed rule would add provisions to ADAAG to address these features.

Description and Estimate of Number of Small Entities to Which the Proposed Rule Will Apply

The proposed rule will apply to small entities in the services industries. The Small Business Administration defines small entities for the services industries as those having $5 million or less in annual receipts. The number of small entities to which the proposed rule will apply are included in the following categories of the Standard Industrial Classification (SIC) system:

(1) Amusement parks (SIC 7996). Census data indicate that 711 out of 753 firms have less than $5 million in annual receipts.

(2) Marinas (SIC 4493). Census data indicate that 3,600 out of 3,675 firms have less than $5 million in annual receipts.

(3) Golf Courses (SIC 7992). Census data indicate that 3,525 out of 3,560 firms have less than $5 million in annual receipts.

(4) Physical fitness facilities (SIC 7991). Census data indicate that 8,116 out of 8,169 firms have less than $5 million in annual receipts.

(5) Membership sports and recreation clubs (SIC 7997). Census data indicate that 6,828 out of 6,929 firms have less than $5 million in annual receipts.

(6) All other amusement and recreation services (SIC 7999). Census data indicate that 21,078 out of 21,312 firms have less than $5 million in annual receipts. This category is over broad and includes entities such as bingo parlors, karate instruction, ping pong parlors, bicycle rental, scuba and skin diving instruction, and yoga instruction, which are not affected by the proposed rule.

The following entities would also be affected by the proposed rule to the extent that they provide exercise equipment, swimming pools, and other recreational facilities covered by the rule.

(7) Sporting and recreational camps (SIC 7032). Census data indicate that all 2,812 firms are small entities.

(8) Elementary and secondary schools (SIC 8211). Census data indicate that 13,335 out of 14,882 private firms are small entities.

(9) Colleges, universities, and professional schools (SIC 8221). Census data indicate that 947 out of 2,063 private firms are small entities.

(10) Junior colleges and technical institutes (SIC 8222). Census data indicate that 353 out of 543 private firms are small entities.

(11) Hotels and motels (SIC 7011). Census data indicate that 34,417 out of 36,695 firms are small entities.

In addition, the proposed rule would apply to public parks and recreation programs, public elementary and secondary schools, and public colleges and universities that provide exercise equipment, swimming pools, or other recreation facilities covered by the rule. For purposes of the Regulatory Flexibility Act, a governmental jurisdiction is considered a small entity if it has a population of less than 50,000. The National Recreation and Park Association estimates that there are 4,800 public park and recreation departments in the United States. The U.S. Department of Education reports that there are 85,393 public elementary and secondary schools, and 1,625 public colleges and universities. The Board seeks information on the number of these public programs which are part of governmental jurisdictions having a population less than 50,000.

Description of Reporting, Record Keeping, and Other Compliance Requirements

The proposed rule establishes accessibility guidelines for the design and construction of new recreation facilities. The guidelines also apply to alterations to recreation facilities. The guidelines apply to altered parts of a facility subject to alteration provisions in ADAAG 4.1.6, including the exception for when compliance is technically infeasible. There are no reporting or record keeping requirements.

The provisions of the proposed rule are discussed in detail in the Section-by-Section Analysis of the preamble. The provisions are summarized briefly below. Amusement rides would be required to provide one wheelchair space and one transfer seat for each 100 fixed seats. An exception is provided for amusement rides where it is not operationally or structurally feasible to provide wheelchair spaces, in which case two transfer seats would be required for each 100 fixed seats. The proposed rule includes technical specifications for wheelchair spaces, transfer seats, accessible loading and unloading areas, wheelchair storage space, and signage.

Boating facilities with floating platforms would be permitted to exceed a 1:12 maximum slope under certain conditions specified in Table 15.2.1 relating to size of the facility and change in water level. At least 3 percent of boat slips would have to be accessible. The proposed rule includes technical specifications for accessible boat slips. Floating fishing piers and platforms would have to comply with the same provisions for gangways as do boating facilities. Where railings are provided at fishing facilities, at least 25 percent of the railings would have to be 32 inches maximum above the ground or deck surface, and edge protection would have to be provided. The proposed rule includes technical specifications for clear space and maneuvering space on fishing piers or platforms.

Golf courses would be permitted to provide a golf car passage on which a motorized golf car can operate in lieu of an accessible route. The proposed rule includes scoping provisions and

technical specifications for teeing grounds, putting greens, driving ranges and practice tees, and weather shelters. The proposed rule also addresses miniature golf courses. Where elevated holes are provided on a miniature golf course, at least 50 percent of those holes would have to be connected by an accessible route. All other holes would have to be on an accessible route. The proposed rule also allows holes to be designed so that wheelchair users can hit the ball from an accessible route adjacent to the hole instead of providing an accessible route through the hole.

At least one of each type of exercise equipment would have to be served by an accessible route and have a clear floor space positioned for transfer or for use by an individual seated in a wheelchair. At least 5 percent of bowling lanes and fixed firing positions at shooting ranges would have to be accessible.

Swimming pools having less than 300 linear feet of pool wall would have to provide at least one accessible means of entry to the pool, and swimming pools having 300 linear feet or more of pool wall would have to provide at least two means of accessible entry to the pool. Wading pools and spas also would have to provide at least one accessible means of entry. The proposed rule includes technical specifications for the following accessible means of entry to pools: swimming pool lifts, slopped entries, transfer walls, transfer systems, pool stairs, and moveable floors.

Other Federal Rules Which May Duplicate, Overlap, or Conflict With the Proposed Rule

Under the ADA, the Department of Justice is responsible for issuing regulations to implement the law. The Department of Justice's ADA regulations are required to include standards for the accessible design of facilities, which must be consistent with ADAAG. Thus, the Department of Justice is expected to amend its ADA regulations at a future date based on the Board's amendments to ADAAG. The Department of Justice's ADA regulations, not ADAAG, are enforceable under the ADA.

Description of Steps Taken To Minimize Any Significant Economic Impact of the Proposed Rule on Small Entities

The proposed rule is issued to implement the ADA, which requires newly constructed and altered facilities to be accessible to individuals with disabilities. By nature of the ADA, ADAAG has universal applicability to all newly constructed and altered facilities covered by the law. In developing the proposed rule, the Board sought the advice and recommendations of an advisory committee representing the various interests affected by the rule, published an advance notice of proposed rulemaking seeking comment on the advisory committee's recommendations, and considered current design and construction practices for the types of facilities addressed by the rule and the potential cost impact of the rule.

The proposed rule is expected to have minimal or negligible impact on the design and construction of new golf courses, bowling centers, shooting ranges, and facilities providing exercise equipment and machines, sauna and steam rooms, and locker rooms. For swimming pools, the number of accessible means of entry to the pool is based on the size of the pools. Swimming pools having less than 300 linear feet of pool wall would have to provide at least one means of accessible entry to the pool. The additional cost for providing an accessible means of entry is expected to be less than 1 percent of the total construction for a swimming pool.

For boating and fishing facilities, the proposed rule is not expected to have any impact on the design and construction of boat slips and pier clearances. The exception permitting gangways to floating piers and platforms to exceed the 1:12 maximum slope is based on the size of the facility and water level change as set out in Table 15.2.1. The table was developed to minimize the cost impact on smaller facilities and facilities having greater water level changes. The cost data is summarized above under Executive Order 12866: Regulatory Assessment.

For miniature golf courses, to minimize the cost impact, the proposed rule would require at least 50 percent of elevated holes and each level hole to be accessible. The Board requests specific guidance in the preamble on how to differentiate between level and elevated holes.

As explained under Executive Order 12866: Regulatory Assessment, there is limited data available on amusement rides. The Board is requesting additional data from owners and operators of amusement rides during the comment period on the proposed rule and will fully analyze any additional data provided before issuing a final rule. The Board seeks information on the economic impact of the proposed rule on small entities who plan to design or construct new amusement rides and any regulatory alternatives that would minimize the impact and still achieve the statutory objective of providing access to such facilities for people with disabilities.

The Board invites comment on this initial regulatory flexibility analysis.

Executive Order 12612: Federalism

The proposed rule is issued under the authority of the Americans with Disabilities Act. Ensuring the civil rights of individuals with disabilities has been recognized as a responsibility of the Federal government. The proposed rule does not otherwise affect the relationship between the Federal government and the States or the distribution of power and responsibilities among the various levels of government to warrant an assessment of federalism implications under Executive Order 12612.

Executive Order 12875: Intergovernmental Partnership

The Board has involved organizations representing the various interests affected by the proposed rule in the development of the rule. The Recreation Access Advisory Committee included representatives of State and local governments. Notices of advisory committee meetings were disseminated widely and interested persons were encouraged to attend the meetings. The report of the advisory committee's recommendations has been distributed to entities that will be affected by the rule and is one of the Board's most frequently requested publications. The Board published an advance notice of proposed rulemaking requesting comments on the advisory committee's report and received comments from all sectors, including State and local governments. In addition to requesting comments on the proposed rule, the Board will hold a public hearing on the rule to give all interested persons an additional opportunity to share their views regarding the rule with the Board.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act does not apply to proposed or final rules that enforce constitutional rights of individuals or enforce any statutory rights that prohibit discrimination on the basis of race, color, sex, national origin, age, handicap, or disability. Since the proposed rule is issued under the authority of the Americans with Disabilities Act, an assessment of the rule's effects on State, local, and tribal governments, and the private sector is not required by the Unfunded Mandates Reform Act.

List of Subjects in 36 CFR Part 1191

Buildings and facilities, Civil rights, Individuals with disabilities, Transportation.

June I. Kailes,

Chair, Architectural and Transportation Barriers Compliance Board.

For the reasons stated in the preamble, the Architectural and Transportation Barriers Compliance Board proposes to amend Part 1191 of title 36 of the Code of Federal Regulations as follows:

PART 1191—AMERICANS WITH DISABILITIES ACT (ADA) ACCESSIBILITY GUIDELINES FOR BUILDINGS AND FACILITIES

1. The authority citation for 36 CFR part 1191 continues to read as follows:

Authority: 42 U.S.C. 12204.

Appendix A to Part 1191—[Amended]

2. Appendix A to part 1191 is amended as follows:

a. In section 3.5, add definitions for ''Amusement Device,'' ''Amusement Ride,'' ''Area of Sport Activity,'' ''Boat Launch Ramp,'' ''Boat Slip,'' ''Design High Point.'' ''Gangway,'' ''Golf Car Path,'' and ''Teeing Ground'' in alphabetical order.

b. In section 4.1.1, remove the word ''or'' at the end of the paragraph 5(b)(ii); add the word ''or'' at the end of paragraph 5(b)(iii); and add a new paragraph 5(b)(iv).

c. In section 4.1.2, redesignate paragraph 2 as paragraph 2(a); add a new paragraph 2(b); add an exception after paragraph 2(b); add an exception after paragraph (3); and add two exceptions after paragraph (4).

d. In section 4.1.3, add a new paragraph (12)(c); add an exception after paragraph (13); add an exception after paragraph (19)(a), add a new paragraph (19)(c); revise paragraph (21); add an exception after paragraph (21); add a new paragraph (22); and add an exception after paragraph (22).

e. Revise the heading of section 4.35, and revise sections 4.35.1 and 4.35.4.

f. Add new section 4.36.

g. Add new section 4.37.

h. Add new section 10.5.

i. Add new section 15.

The additions and revisions read as follows:

Appendix A to Part 1191—Americans With Disabilities Act (ADA) Accessibility Guidelines for Buildings and Facilities

* * * * *

3.5 Definitions

* * * * *

Amusement Device. A device which moves persons through a fixed course within a defined area for the purpose of amusement or entertainment and which is not controlled or operated by the rider.

Amusement Ride. A system containing one or more amusement devices that are intended to provide the same general amusement experience.

* * * * *

Area of Sport Activity. That portion of a room or space where the play or practice of a sport occurs.

* * * * *

Boat Launch Ramp. A sloped surface designed for the launching and retrieval of trailered boats to and from the water.

Boat Slip. The area where a boat is tied to a dock or pier for the purpose of embarking or disembarking.

* * * * *

Design High Point. A selected elevation, based on hydrologic data and other appropriate records, which is used as a safe and practical upper limit for the design and construction of a gangway to a floating facility.

* * * * *

Gangway. A variable-sloped structure linking a fixed structure or land with a floating structure.

Golf Car Passage. A continuous passage on which a motorized golf car can operate.

* * * * *

Teeing Ground. In golf, the starting place for the hole to be played.

* * * * *

4.1.1* Application

* * * * *

(b) Accessibility is not required to or in:

* * *

(iv) structures used solely for refereeing a sport.

* * * * *

4.1.2 Accessible Sites and Exterior Facilities: New Construction

* * * * *

(2) * * *

(b) Court Sports. An accessible route complying with 4.3 shall connect both sides of the court in court sports.

Exception: Vertical access is not required to a raised boxing ring.

(3) * * *

Exception: The requirements of 4.4 do not apply to areas of sport activity.

(4) * * *

Exception 1: The requirements of 4.5 do not apply to an area of sport activity.

Exception 2: The requirements for stable, firm, and slip-resistant surfaces do not apply to surfaces in hoofed animal containment areas.

* * * * *

4.1.3 Accessible Buildings: New Construction

* * * * *

(12) * * *

(c) Where lockers are provided in accessible spaces, at least 5 percent, but not less than one, of each type shall comply with 4.25.

(13) * * *

Exception: The requirements of 4.27 do not apply to exercise machines.

* * * * *

(19) * * *

(a) * * *

Exception: In amusement facilities where the motion of fixed seats is an integral part of the amusement experience, transfer seats complying with 15.1.4 shall be permitted.

* * * * *

(c) In addition to the requirements of 4.1.3(19)(a), where a fixed team or player seating area is provided and serves an accessible area of sport activity, the seating area shall contain wheelchair spaces in a number required by 4.1.3(19)(a), but not less than one space. Such wheelchair spaces shall conform to 4.33.2, 4.33.3, 4.33.4, and 4.33.5.

* * * * *

(21) Where a public or common use dressing, fitting, or locker room is provided, the room shall comply with 4.35.

Exception: Where public or common use dressing, fitting, or locker rooms are provided in a cluster, at least 5 percent, but not less than one, of the rooms for each type of use in each cluster shall comply with 4.35.

(22) Where saunas or steam rooms are provided, the rooms shall comply with 4.36.

Exception: Where saunas or steam rooms are provided in a cluster, 5 percent, but not less than one, of the rooms for each type of use in each cluster, shall comply with 4.37.

* * * * *

4.35 Dressing, Fitting, and Locker Rooms

4.35.1 General. Dressing, fitting, and locker rooms required to be accessible by 4.1 shall comply with 4.35 and shall be on an accessible route.

* * * * *

4.35.4 Bench. Accessible dressing rooms, fitting rooms, and locker rooms shall have a bench complying with 4.37.

* * * * *

4.36 Saunas and Steam Rooms

4.36.1 General. Saunas and steam rooms required to be accessible by 4.1 shall comply with 4.36.

4.36.2 Turning Space. A turning space complying with 4.2.3 shall be provided within the room.

Exception: Turning space shall be permitted to be temporarily obstructed by readily removable seats.

4.36.3 Bench. Where provided, at least one bench shall comply with 4.37.

Exception: Clear floor space required by 4.37.1 shall be permitted to be temporarily obstructed by readily removable seats.

4.36.4 Door Swing. Doors shall not swing into any part of the clear floor space required at an accessible bench.

4.37 Benches

4.37.1 Clear Floor or Ground Space. Clear floor or ground space complying with 4.2.4 shall be provided and shall be positioned for parallel approach to an end of the bench seat.

4.37.2 Size. Benches shall have seats that are 20 in (510 mm) minimum to 24 in (610

mm) maximum in depth and 42 in (1065 mm) minimum in length. The bench shall be fixed and shall have back support which is 42 in (1065 mm) minimum in length and extend from a point 2 in (50 mm) maximum above the bench to a point 18 in (455 mm) minimum above the bench.

4.37.3 Height. The bench seat shall be 17 in (430 mm) minimum to 19 in (485 mm) maximum above the floor or ground.

4.37.4 Structural Strength. Allowable stresses shall not be exceeded for materials used when a vertical or horizontal force of 250 lbs (1112 N) is applied at any point on the seat, fastener, mounting device, or supporting structure.

4.37.5 Wet Locations. Where installed in wet locations, the surface of the bench shall be slip-resistant and shall not accumulate water.

* * * * *

10.5 Boat and Ferry Docks. Boat and ferry docks shall comply with 15.2.

* * * * *

15 Recreation Facilities

Recreation facilities covered by this section shall comply with the applicable requirements of section 4 and the special application sections, except as modified or otherwise provided in this section.

Amusement Rides

15.1 General. Amusement rides with amusement devices containing fixed seats shall comply with 15.1.

15.1.1 Number Required. One wheelchair space complying with 15.1.3 shall be provided per 100 fixed seats or fraction thereof on each amusement ride. In addition, one transfer seat complying with 15.1.4 shall be provided per 100 fixed seats or fraction thereof on each amusement ride.

Exception: Where it is not operationally or structurally feasible to provide wheelchair spaces, two transfer seats complying with 15.1.4 shall be provided per 100 fixed seats or fraction thereof on each amusement ride.

15.1.1.1 Dispersion. Accessible amusement devices shall be dispersed throughout the amusement ride. Where different types of amusement devices are provided on an amusement ride, the accessible amusement devices shall be dispersed among the different types. This provision does not require an increase in the minimum number of amusement devices required to be accessible.

15.1.2 Accessible Loading and Unloading Areas. An accessible route shall connect the portion of the loading and unloading area serving each accessible amusement device. The loading and unloading area serving each accessible amusement device shall provide a maneuvering space complying with 4.2.3. The maneuvering space shall have a slope not steeper than 1:48.

15.1.2.1 Wheelchair Storage Space. A wheelchair storage space complying with 4.2.4 shall be provided in the unloading area for each required transfer seat. Wheelchair storage spaces shall not overlap any required means of egress or accessible route.

15.1.2.2 Signage. Signage shall be provided at the entrance of the queue or waiting line for each amusement ride to identify whether the accessible amusement devices provide wheelchair spaces, transfer seats, or both. Where an accessible unload area also serves as the accessible load area, signage shall be provided at the entrance to the queue or waiting line indicating the location of the accessible load and unload area.

15.1.2.3 Loading and Unloading. When an accessible amusement device is positioned for loading or unloading, the height of the loading or unloading area shall be coordinated with the floor height of the amusement device so that, when the device is at rest, the vertical difference shall be within plus or minus 5/8 in (16 mm) under normal passenger load conditions and the horizontal gap shall be no greater than 3 in (75 mm).

Exception: Where it is not operationally or structurally feasible to meet the horizontal or vertical difference requirements, ramps, bridge plates, or similar manually deployed devices complying with the applicable requirements of 36 CFR 1192.83 shall be provided.

15.1.3 Wheelchair Space. Accessible amusement devices designed to provide wheelchair spaces shall comply with 15.1.3.

15.1.3.1 Floor or Ground Surface. The floor or ground surface of wheelchair spaces shall have a slope not steeper than 1:48 and shall comply with 4.5.1, 4.5.3, and 4.5.4. Changes in level are not permitted.

15.1.3.2 Width. A wheelchair space shall be 36 in (915 mm) minimum in width.

15.1.3.3 Depth. Where a wheelchair space can be entered from the front or rear, the wheelchair space shall be 48 in (1220 mm) minimum in depth. Where a wheelchair space can be entered only from the side, the wheelchair space shall be 60 in (1525 mm) minimum in depth.

15.1.3.4 Approach. One side of the wheelchair space shall adjoin an accessible route.

15.1.3.5 Fixed Companion Seats. Where amusement devices provide seating for more than one rider, a fixed companion seat shall be provided for each required wheelchair space. Where amusement devices provide shoulder-to-shoulder seating, companion seats shall be shoulder-to-shoulder with the adjacent wheelchair space.

15.1.4 Transfer Seat. Accessible amusement devices designed to provide transfer seats shall comply with 15.1.4 when positioned for loading and unloading.

15.1.4.1 Clear Floor Space. Clear floor space complying with 4.2.4.1 shall be provided with the longer dimension parallel to the unobstructed side of the transfer seat and shall be located within 3 in (75 mm) maximum from the transfer seat. Clear floor space shall extend 12 in (305 mm) beyond the back of the seat (see Fig. 58).

15.1.4.2 Maneuvering Space. The maneuvering space required by 15.1.2 is permitted to overlap the clear floor space serving transfer seats.

15.1.4.3 Transfer Seat Dimensions and Position. The height of the transfer seat shall be 17 in (430 mm) minimum to 19 in (485 mm) maximum above the load and unload platform. The end of the transfer seat adjacent to the clear floor space complying with 15.1.4.1 shall be unobstructed when in the load and unload position (see Fig. 59).

15.1.4.4 Transfer Entry. When in the load and unload position the amusement device shall provide a 36 in (915 mm) wide minimum entry. The entry shall provide a opening and shall be positioned parallel and adjacent to the longer dimension of the clear floor space (see Fig. 60).

Boating Facilities

15.2 Boating Facilities. Boating facilities shall comply with 15.2.

15.2.1 Gangways. Gangways which are part of an accessible route shall comply with 4.3. Gangways shall be permitted to have transition plates at the top and bottom.

Exception 1. The maximum rise specified by 4.8.2 shall not apply to gangways.

Exception 2. Gangways shall be permitted to exceed the maximum slope specified by 4.8.2 when the distance in feet between the design high point and the level of the water, and the square footage of fixed and floating piers at the facility are in accordance with Table 15.2.1.

Exception 3. Handrail extensions shall not be required on gangways or landings where they connect to transition plates and shall not be required on transition plates.

TABLE 15.2.1.—CONDITIONS WHEN GANGWAY MAY EXCEED 1:12 MAXIMUM SLOPE

Distance in feet between design high point and water level is over	And square footage of fixed and floating piers at the facility is less than
2.5	3,000
5.0	10,000
10.0	20,000
12.5	30,000
30.0	95,000

15.2.2 Slips: Minimum Number. Where boat slips are provided, at least 3 percent, but not less than one, shall comply with 15.2.3. Accessible boat slips shall be dispersed throughout the various types provided. This provision does not require an increase in the minimum number of boat slips required to be accessible. Where the number of slips cannot be identified, each 40 feet (12.2 m) of mooring space provided along the perimeter of a pier, shall be counted as one boat slip for the purpose of this section.

15.2.2.1 Slips Serving Boat Launch Ramps. In addition to the requirements of 15.2.2, where boat launch ramps are provided with boarding piers, at least one accessible slip complying with 15.2.3 shall be provided adjacent to a boat launch ramp.

15.2.2.2 Location. Among each type provided, accessible slips shall be those nearest to amenities provided in the boating facility.

15.2.3 Accessible Boat Slips. Accessible boat slips shall comply with 15.2.3.

15.2.3.1 Pier Clearances. Accessible boat slips shall be served by clear pier space 60 in (1525 mm) wide minimum and at least as long as the accessible slip (see Fig. 61). Every

120 in (3050 mm) maximum of linear pier edge serving the accessible boat slip shall contain at least one continuous clear opening 60 in (1525 mm) minimum (see Fig. 62).

Fishing Piers and Platforms

15.3 Fishing Piers and Platforms. Each fishing pier and platform shall comply with 15.3.

15.3.1 Accessible Route. When an accessible route connects a floating fishing pier or a floating fishing platform, the requirements of 15.2.1 shall apply.

15.3.2 Railings. Where railings, guardrails, or handrails are provided, they shall comply with 15.3.2.

15.3.2.1 Edge Protection. Edge protection shall be provided and shall extend 2 in (50 mm) minimum above the ground or deck surface.

15.3.2.2 Height. At least 25 percent of the railings shall be 32 in (815 mm) maximum above the ground or deck surface.

15.3.2.3 Dispersion. Railings required to comply with 15.3.2.2 shall be dispersed throughout a fishing facility.

15.3.3 Clear Pier or Platform Space. At least one clear space complying 4.2.4.1 shall be provided where the railing height required by 15.3.2.2 is located. Where no railings are provided, at least one clear space complying with 4.2.4.1 shall be provided on the fishing pier or fishing platform.

15.3.4 Maneuvering Space. At least one maneuvering space complying with 4.2.3 shall be provided on the fishing pier or fishing platform.

Golf

15.4 General. Golf courses, driving ranges, and practice putting greens shall comply with 15.4.

15.4.1 Accessible Route. The accessible route required by 4.1.2(2) shall be 48 in (1220 mm) minimum wide where located within the boundary of a golf course and shall connect to the bag drop areas, accessible teeing grounds, and putting greens. Where handrails are required, the accessible route shall be 60 in (1525 mm) minimum wide.

Exception 1: A golf car passage complying with 15.4.5 shall be permitted in lieu of all or part of an accessible route within the boundary of the golf course.

Exception 2: The requirements of 4.8.5 do not apply to an accessible route located within the boundary of a golf course.

15.4.2 Teeing Grounds. Where one teeing ground is provided for a hole, the teeing ground shall comply with 15.4.7. Where two or more teeing grounds are provided for a hole, at least two teeing grounds serving the hole shall comply with 15.4.7.

15.4.3 Driving Ranges and Practice Tees. Where driving ranges or practice tees are provided, at least 5 percent of the practice tees, but not less than one, shall comply with 15.4.7.

15.4.4 Weather Shelters. Where weather shelters are provided on a golf course, each weather shelter shall have a clear floor or ground space 60 in (1525 mm) minimum by 96 in (2440 mm) minimum and shall be designed and constructed so that a golf car can enter and exit in a forward direction.

15.4.5 Golf Car Passage. Where curbs or other manmade barriers are provided along a golf car passage to prohibit a golf car from entering a fairway, openings at least 60 in (1525 mm) wide shall be provided at intervals of 75 yds (69 m).

15.4.5.1 Width. The golf car passage shall be 48 in (1220 mm) minimum wide.

15.4.6 Putting Greens. Putting greens shall be designed and constructed so that a golf car can enter, maneuver within, and exit the putting green.

15.4.7 Teeing Grounds. Accessible teeing grounds shall have a minimum clear area of 10 ft by 10 ft (3050 mm by 3050 mm) with a surface slope which does not exceed 1:48 in all directions, and shall be designed and constructed so that a golf car can enter in a forward direction and maneuver in the teeing ground.

Miniature Golf

15.5 Miniature Golf Courses. Each hole on a miniature golf course shall comply with 15.5.

Exception: Where elevated holes are provided, at least 50 percent of elevated holes shall comply with 15.5.

15.5.1 Accessible Route. An accessible route shall connect start of play areas on each accessible hole.

Exception 1: Readily removable curbs are permitted where the accessible route intersects the playing surface of a hole.

Exception 2: Where the accessible route is located on the playing surface of a hole, a maximum slope of 1:4 is permitted for a 4 in (100 mm) maximum rise.

Exception 3: The requirements of 4.8.5 do not apply to an accessible route located on a hole.

15.5.2 Start of Play Areas. An accessible start of play area shall have a slope not steeper than 1:48 and shall be 60 in (1525 mm) minimum by 60 in (1525 mm) minimum.

15.5.3 Golf Club Reach Range. All level areas within accessible holes where golf balls rest shall be within 27 in (560 mm) maximum of an accessible route with a maximum slope of 1:20 (see Fig. 63).

Play Areas

15.6 Play Areas [Reserved]

Sports Facilities

15.7.1 Exercise Equipment and Machines. At least one of each type of exercise equipment and machines shall be provided with clear floor space complying with 4.2.4 and shall be served by an accessible route. Clear floor space shall be positioned for transfer or for use by an individual seated in a wheelchair.

15.7.2 Bowling Lanes. Where bowling lanes are provided, at least 5 percent, but not less than one lane of each type, shall be accessible.

15.7.3 Shooting Facilities. Where fixed firing positions are provided at a site, at least 5 percent, but not less than one, of each type of fixed firing position, shall comply with 15.7.3.1. Factors to be considered in determining the types of fixed firing positions include the price of admission, if covering and lighting is provided, and the shooting events the fixed firing position intends to support.

15.7.3.1 Fixed Firing Position. An accessible fixed firing position shall contain a turning circle complying with 4.2.3 and shall have a slope not steeper than 1:48 in all directions.

Swimming Pools, Wading Pools, and Spas

15.8.1 Swimming Pools. At least two accessible means of entry shall be provided for each public and common use swimming pool. The primary means of entry shall comply with 15.8.4 (Swimming Pool Lifts) or 15.8.5 (Sloped Entries). The secondary means of entry shall not duplicate the primary means and shall comply with one of the following: 15.8.4 (Swimming Pool Lifts), 15.8.5 (Sloped Entries), 15.8.6 (Transfer Walls), 15.8.7 (Transfer Systems), 15.8.8 (Pool Stairs), or 15.8.9 (Moveable Floors).

Exception: Where a swimming pool has less than 300 linear feet of swimming pool wall, at least one accessible means of entry shall be provided and shall comply with 15.8.4 (Swimming Pool Lifts) or 15.8.5 (Sloped Entries).

15.8.2 Wading Pools. At least one accessible means of entry complying with 15.8.5 (Sloped Entries), 15.8.6 (Transfer Walls), or 15.8.7 (Transfer Systems), shall be provided for each wading pool.

15.8.3 Spas. At least one accessible means of entry complying with 15.8.4 (Swimming Pool Lifts), 15.8.6 (Transfer Walls), or 15.8.7 (Transfer Systems) shall be provided for each spa.

Exception: Where spas are provided in a cluster, 5 percent, but not less than one in each cluster, shall be accessible.

15.8.4 Swimming Pool Lifts. Swimming pool lifts shall comply with 15.8.4.

15.8.4.1 Seat Location. In the raised position, the centerline of the seat shall be located over the deck and 20 in (510 mm) minimum from the edge of the pool.

15.8.4.2 Clear Deck Space. On the side of the seat opposite the water, a clear deck space shall be provided parallel with the seat. The space shall have a width of 30 in (760 mm) minimum and shall extend forward 48 in (1220 mm) minimum from a line located 12 in (305 mm) behind the intersection of the seat and its back (see Fig. 75).

15.8.4.3 Seat Height. The height of the lift seat shall be 16 in (405 mm) minimum to 18 in (455 mm) maximum measured from the deck to the top of the seat surface when in the raised (load) position (see Fig. 76(a)).

15.8.4.4 Seat Width. The seat shall be 16 in (405 mm) minimum wide.

15.8.4.5 Footrests and Armrests. Footrests shall be provided and shall move with the seat. If provided, armrests positioned opposite the water shall be removable or shall fold clear of the seat when the seat is in the raised (load) position.

15.8.4.6 Operation. The lift shall be capable of unassisted operation from both the deck and water levels. Controls and operating mechanisms shall be unobstructed when the lift is in use. Controls and operating mechanisms shall comply with 4.27.4 and shall not require continuous manual pressure for operation.

15.8.4.7 Submerged Depth. The lift shall be designed so that the seat will submerge to

a water depth of 18 in (455 mm) minimum (see Fig. 76(b)).

15.8.4.8 Lifting Capacity. Single person pool lifts shall have a minimum weight capacity of 300 lbs (136 kg). Lifts shall be capable of sustaining a static load of at least three times the rated load.

15.8.5 Sloped Entries. Sloped entries shall comply with 15.8.5.

15.8.5.1 Sloped Entries. Sloped entries designed to provide access into the water shall comply with 4.3, except as modified below.

15.8.5.2 Submerged Depth. Where sloped entries are designed to provide access into the water, they shall extend to a depth of 24 in (610 mm) minimum to 30 in (760 mm) maximum below the stationary water level. Where landings are required by 4.8, at least one landing shall be located 24 in (610 mm) minimum to 30 in (760 mm) maximum below the stationary water level (see Fig. 77).

Exception: In wading pools, the sloped entry and landings, if provided, shall extend to the deepest part of the wading pool.

15.8.5.3 Handrails. Handrails shall be provided on both sides of the sloped entry. The clear width between handrails shall be 33 in (840 mm) minimum and 38 in (965 mm) maximum. Handrail extensions required by 4.8.5 shall not be required at the bottom landing serving a pool ramp (see Fig. 78).

15.8.6 Transfer Walls. Transfer walls shall comply with 15.8.6.

15.8.6.1 Clear Deck Space. A clear deck space of 60 in (1525 mm) minimum by 60 in (1525 mm) minimum with a slope not steeper than 1:48 shall be provided at the base of the transfer wall. Where one grab bar is provided, the clear deck space shall be centered on the grab bar. Where two grab bars are provided, the clear deck space shall be centered on the clearance between the grab bar (see Fig. 79).

15.8.6.2 Height. The height of the transfer wall shall be 16 in (405 mm) minimum to 18 in (455 mm) maximum measured from the deck (see Fig. 80).

15.8.6.3 Wall Depth. The depth of the transfer wall shall be 12 in (305 mm) minimum to 16 in (405 mm) maximum.

15.8.6.4 Surface. The surface of the transfer wall shall not have sharp edges.

15.8.6.5 Grab Bars. At least one grab bar shall be provided on the transfer wall. Grab bars shall be perpendicular to the pool wall and shall extend the full depth of the wall. The top of the gripping surface shall be 4 in (100 mm) maximum above walls. Where two grab bars are provided, clearance between grab bars shall be 22 in (560 mm) minimum. Where one grab bar is provided, clearance shall be 22 in (560 mm) minimum on both sides of the grab bar. Grab bars shall comply with 4.26.

15.8.7 Transfer Systems. Transfer systems shall comply with 15.8.7.

15.8.7.1 Transfer Platform. A transfer platform 19 in (485 mm) minimum deep by 22 in (560 mm) minimum wide shall be provided at the head of each transfer system.

15.8.7.2 Clear Deck Space. A clear deck space of 60 in (1525 mm) minimum by 60 in (1525 mm) minimum with a slope not steeper than 1:48 shall be provided at the base of the transfer platform surface and shall be centered along a 22 in (560 mm) minimum unobstructed side of the transfer platform (see Fig. 81).

15.8.7.3 Height. The height of the transfer platform shall comply with 15.8.6.2.

15.8.7.4 Transfer Step Risers. Transfer step riser height shall be 7 in (180 mm) maximum. Transfer step risers shall extend to a water depth of 18 in (455 mm) minimum (see Fig. 82).

15.8.7.5 Surface. The surface of the transfer system shall not have sharp edges.

15.8.7.6 Size. Each transfer step shall have a tread depth of 12 in (305 mm) minimum and 17 in (430 mm) maximum and shall have a tread width of 22 in (560 mm) minimum.

15.8.7.7 Grab Bars. One grab bar shall be provided on each step. The grab bar at the transfer platform shall not obstruct transfer. The top of the gripping surface shall be 4 in (100 mm) maximum above each step. Grab bars shall comply with 4.26.

15.8.8 Pool Stairs. Pool stairs shall comply with 15.8.8.

15.8.8.1 Pool Stairs. Pool stairs shall comply with 4.9, except as modified below.

15.8.8.2 Handrails. The width between handrails shall be 20 in (510 mm) minimum and 22 in (560 mm) maximum. Handrail extensions required by 4.9.4 shall not be required at the bottom landing serving a pool stair.

15.8.9 Moveable Floors. The pool coping shall comply with 4.5.2 where the moveable floor connects with the pool deck.

* * * * *

3. The following figures indicated in the left hand column will be added following the sections in Appendix A indicated in the right hand column:

Figure	Section
58	15.1.4.1.
59	15.1.4.3.
60	15.1.4.4.
61	15.2.3.1.
62	15.2.3.1.
63	15.5.3.
64	[Reserved].
65	[Reserved].
66	[Reserved].
67	[Reserved].
68	[Reserved].
69	[Reserved].
70	[Reserved].
71	[Reserved].
72	[Reserved].
73	[Reserved].
74	[Reserved].
75	15.8.4.2.
76	15.8.4.3.
77	15.8.5.2.
78	15.8.5.3.
79	15.8.6.1.
80	15.8.6.2.
81	15.8.7.2.
82	15.8.7.4.

Figures 58 to 63 and 75 to 82 read as follows:

BILLING CODE 8150–01–P

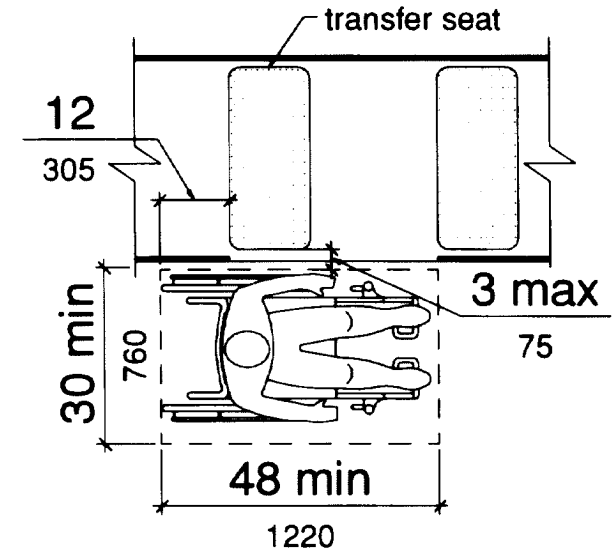

Fig. 58

Clear Floor Space at Transfer Seats

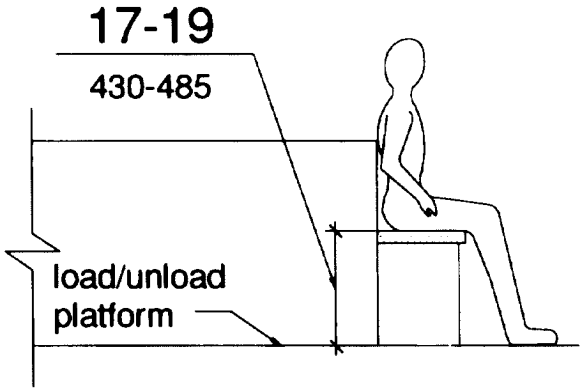

Fig. 59

Transfer Seat Height

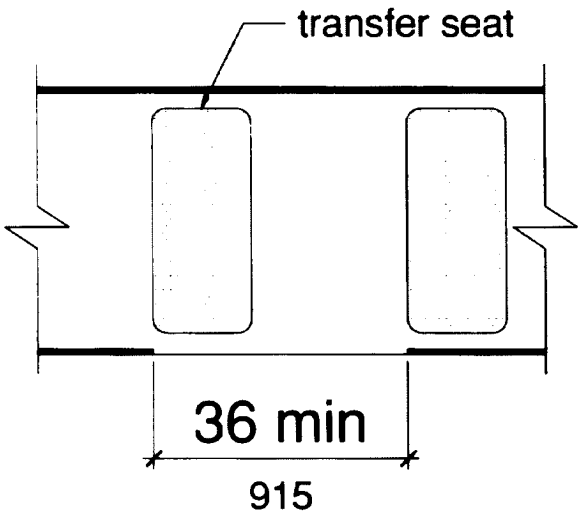

Fig. 60

Transfer Seat Entry

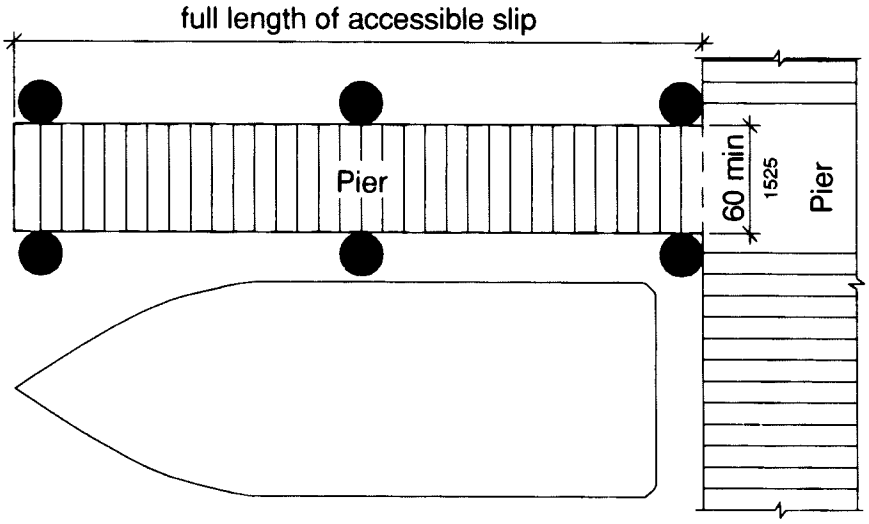

Fig. 61

Clear Space at Pier

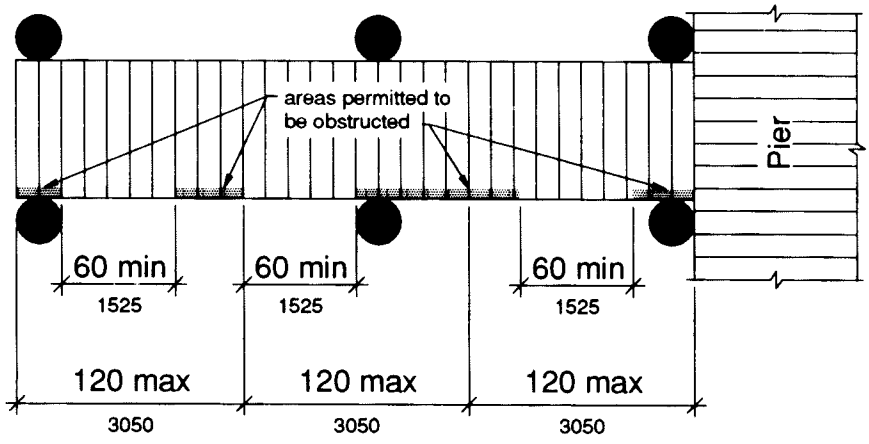

Fig. 62

Pier Clear Opening

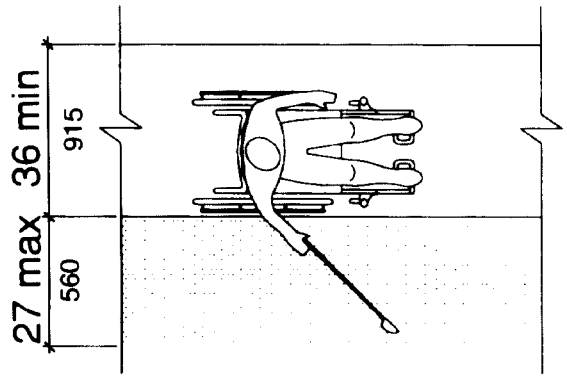

Fig. 63

Golf Club Reach Range

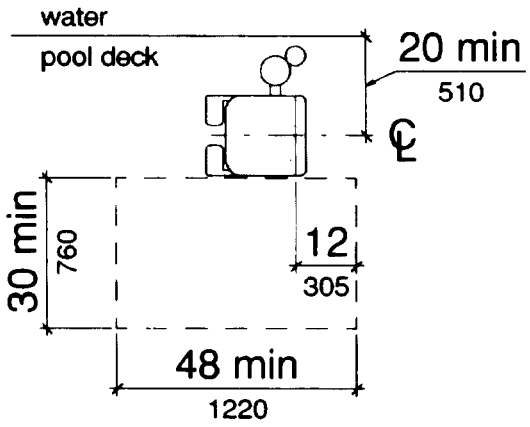

Fig. 75

Clear Deck Space at Pool Lift

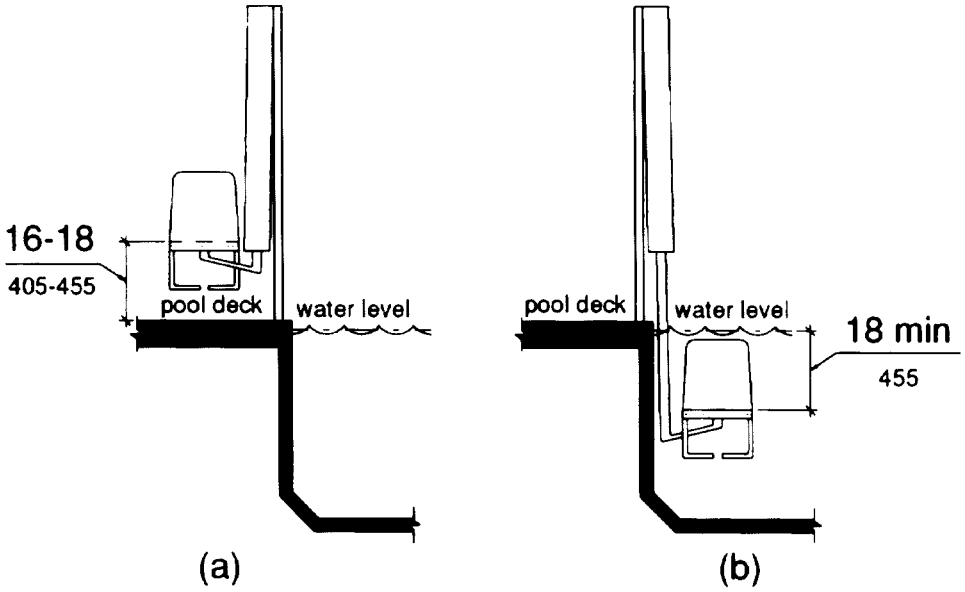

Fig. 76

Height and Submerged Depth of Pool Lifts

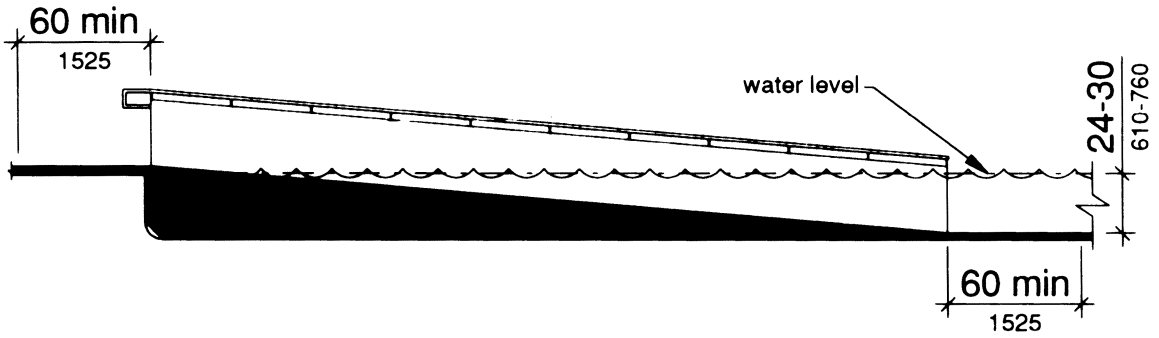

Fig. 77

Sloped Entries

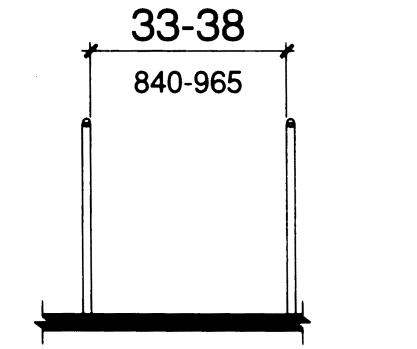

Fig. 78

Sloped Entry Handrails

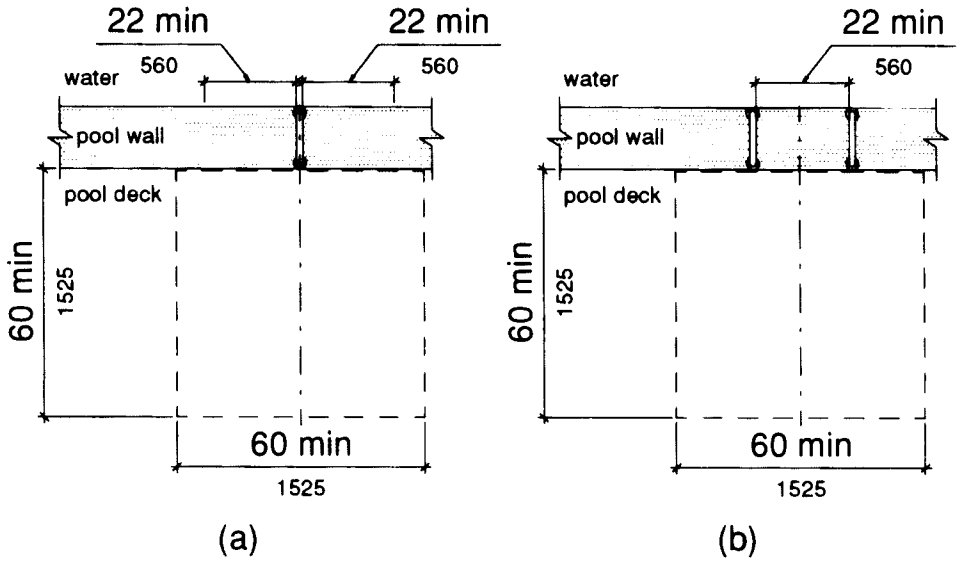

Fig. 79

Clear Deck Space at Transfer Walls

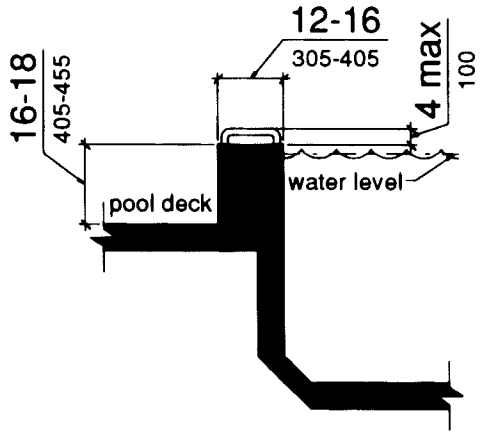

Fig. 80

Transfer Walls

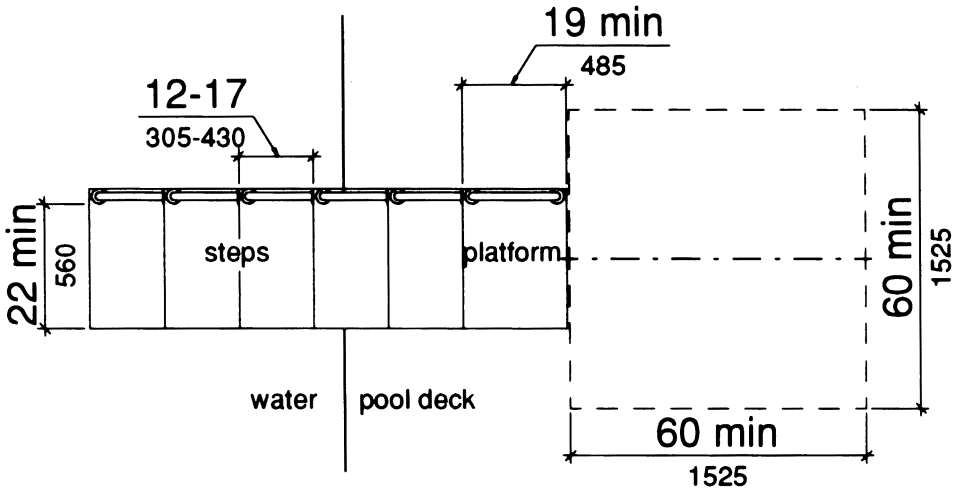

Fig. 81

Clear Deck Space at Transfer Systems

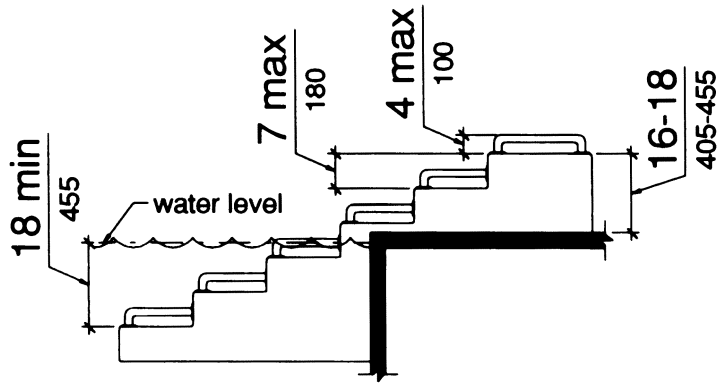

Fig. 82

Transfer Systems

[FR Doc. 99–17156 Filed 7–8–99; 8:45 am]
BILLING CODE 8150–01–C

Friday
July 9, 1999

Part VII

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 9 and 31

Federal Acquisition Regulation; Contractor Responsibility, Labor Relations Costs, and Costs Relating to Legal and Other Proceedings; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 9 and 31

[FAR Case 99–010]

RIN 9000–AI40

Federal Acquisition Regulation; Contractor Responsibility, Labor Relations Costs, and Costs Relating to Legal and Other Proceedings

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to clarify coverage and give examples of suitable contractor responsibility considerations, as well as to make unallowable the costs of attempting to influence employee decisions regarding unionization, and make unallowable those legal expenses related to defense of judicial or administrative proceedings brought by the Federal Government when a contractor is found to have violated a law or regulation, or the proceeding is settled by consent or compromise, except to the extent specifically provided as part of the settlement agreement.

DATES: Comments should be submitted on or before November 8, 1999 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVR), 1800 F Street, NW, Room 4035 ATTN: Laurie Duarte Washington, DC 20405.

Address e-mail comments submitted via the Internet to: farcase.99–010@gsa.gov.

Please submit comments only and cite FAR case 99–010 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Mr. Ralph De Stefano, Procurement Analyst, at (202) 501–1758. Please cite FAR case 99–010.

SUPPLEMENTARY INFORMATION:

A. Background

1. FAR Responsibility Criteria

This proposed rule revises FAR 9.104–1(d) and (e) to clarify coverage concerning contractor responsibility considerations, by adding examples of what falls within the existing definition of ''an unsatisfactory record of integrity and business ethics.'' The proposed amendment will provide contracting officers with guidance concerning general standards of contractor compliance with applicable laws when making pre-award responsibility determinations.

A prospective contractor's record of compliance with laws and regulations promulgated by the Federal Government is a relevant and important part of the overall responsibility determination. This proposed FAR amendment clarifies the existing rule by providing several examples of what constitutes an unsatisfactory record of compliance with laws and regulations. These examples are premised on the existing principle that the Federal Government should not enter into contracts with contractors who do not comply with the law. For example, the proposed rule clarifies that a prospective contractor's failure to comply with applicable tax laws may be considered by the contracting officer in making a responsibility determination. Similarly, the proposed rule attempts to clarify the fact that an established record of employment discrimination would be a relevant part of the contracting officer's responsibility determination because such a record or pattern is a strong indication of a contractor's overall willingness or capability to comply with applicable laws.

Normally, the contracting officer should base adverse responsibility determinations involving violations of law or regulation upon a final adjudication by a competent authority concerning the underlying charge. However, in some circumstances, it may be appropriate for the contracting officer to base an adverse responsibility determination upon persuasive evidence of substantial noncompliance with a law or regulation (*i.e.*, not isolated or trivial, but repeated and substantial violations establishing a pattern or practice by a prospective contractor. The facts and circumstances in each such case will require close scrutiny and examination.).

An efficient, economical and well-functioning procurement system requires the award of contracts to organizations that meet high standards of integrity and business ethics and have the necessary workplace practices to assure a skilled, stable and productive workforce. This proposal seeks to further the Government's use of best practices by ensuring the Government does business only with high-performing and successful companies that work to maintain a good record of compliance with applicable laws.

2. Cost Principle Changes

This proposed rule revises the cost principle at FAR 31.205–21 to make unallowable those costs relating to attempts to influence employee decisions regarding unionization. This cost principle change is in furtherance of the Government's long-standing policy to remain neutral with respect to employer-employee labor disputes (see FAR Part 22). Some contractors are claiming, as an allowable cost, those activities designed to influence employees with regard to unionization decisions. Inasmuch as a number of cost-based Federal programs have long made these types of costs unallowable as a matter of public policy (*e.g.*, see 29 U.S.C. 1553(c)(1), 42 U.S.C. 1395x(v)(1)(N), 42 U.S.C. 9839(e), and 42 U.S.C. 12634(b)(1)), equity dictates that this same principle be extended to Government contracts as well.

The proposed rule also revises FAR 31.205–47 to make clear that costs relating to legal and other proceedings are unallowable where the outcome is a finding that a contractor has violated a law or regulation, or where the proceeding was settled by consent or compromise (except that such costs may be made allowable to the extent specifically provided as a part of a settlement agreement). At present, the relevant cost principle generally makes unallowable legal and other proceeding costs where, for example, in a criminal proceeding, there is a conviction; or where, for example, in a civil proceeding, there is a monetary penalty imposed. There are a number of civil proceedings brought by the Federal Government each year that do not result in imposition of a monetary penalty (*e.g.*, NLRB or EEOC proceedings), but which do involve a finding or adjudication that a contractor has violated a law or regulation, and where appropriate remedies are then ordered.

Under the proposed rule, the allowability of legal and other proceedings costs would depend on whether or not a contractor is found to have violated a law or regulation rather than on the nature of the remedy imposed. Taxpayers should not have to pay the legal defense costs associated

with adverse decisions against contractors, especially where the proceeding is brought by an agency of the Federal Government.

3. Additional Considerations

In order to give greater effect to the FAR responsibility clarifications being proposed, please provide comments and suggestions concerning whether the provision appearing at FAR 52.209–5, Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters, should be amended to provide for enhanced responsibility disclosure relative to this proposal.

This is not a significant regulatory action and, therefore, was not subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

This proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities do not involve use of formal responsibility surveys. In addition, most contracts awarded to small entities use simplified acquisition procedures or are awarded on a competitive fixed-price basis and do not require the submission of cost or pricing data or information other than cost or pricing data, and thus do not require application of the FAR cost principles. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR subparts in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 99–010), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed FAR changes do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 9 and 31

Government procurement.

Dated: July 1, 1999.

Jeremy F. Olson,

Acting Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose that 48 CFR parts 9 and 31 be amended as set forth below:

1. The authority citation for 48 CFR parts 9 and 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 9—CONTRACTOR QUALIFICATIONS

2. Amend section 9.104–1 to revise paragraphs (d) and (e) to read as follows:

9.104–1 General standards.

* * * * *

(d) Have a satisfactory record of integrity and business ethics (examples of an unsatisfactory record may include persuasive evidence of the prospective contractor's lack of compliance with tax laws, or substantial noncompliance with labor laws, employment laws, environmental laws, antitrust laws or consumer protection laws);

(e) Have the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them (including, as appropriate, such elements as production control procedures, property control systems, quality assurance measures, and safety programs applicable to materials to be produced or services to be performed by the prospective contractor and subcontractors) (see 9.104–3(a)) and the necessary workplace practices addressing matters such as training, worker retention, and legal compliance to assure a skilled, stable and productive workforce;

* * * * *

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

3. Revise section 31.205–21 to read as follows:

31.205–21 Labor relations costs.

(a) Costs incurred in maintaining satisfactory relations between the contractor and its employees, including costs of shop stewards, labor management committees, employee publications, and other related activities, are allowable.

(b) Costs incurred for activities related to influencing employees' decision regarding unionization are unallowable.

4. In section 31.205–47, redesignate paragraphs (b)(3) through (b)(5) as paragraphs (b)(4) through (b)(6) and add new paragraph (b)(3); and revise redesignated paragraphs (b)(5) and (b)(6) to read as follows:

31.205–47 Costs related to legal and other proceedings.

* * * * *

(b) * * *

(3) In a judicial or administrative proceeding brought by the Government, a finding that the contractor violated a law or regulation;

* * * * *

(5) Disposition of the matter by consent or compromise if the proceeding could have led to any of the outcomes listed in paragraphs (b)(1) through (4) of this subsection (but see paragraphs (c) and (d) of this subsection); or

(6) Not covered by paragraphs (b)(1) through (5) of this subsection, but where the underlying alleged contractor misconduct was the same as that which led to a different proceeding whose costs are unallowable by reason of paragraphs (b)(1) through (5) of this subsection.

* * * * *

[FR Doc. 99–17298 Filed 7–8–99; 8:45 am]

BILLING CODE 6820–EP–P

Friday
July 9, 1999

Part VIII

Department of Education

National Institute on Disability and Rehabilitation Research; Final Funding Priorities for Fiscal Year 1999 for New Awards and Inviting Applications and Pre-Application Meeting for New Awards Under the Assistive Technology Act Technical Assistance Program; Notices

DEPARTMENT OF EDUCATION

National Institute on Disability and Rehabilitation Research

AGENCY: Department of Education.

ACTION: Notice of final funding priorities for fiscal year 1999 for new awards Under the Assistive Technology Act Technical Assistance Program.

SUMMARY: The Secretary announces final funding priorities for four assistive technology (AT) technical assistance (TA) activities under the National Institute on Disability and Rehabilitation Research (NIDRR) for fiscal year 1999. The Secretary takes this action to improve the activities of AT projects that serve individuals with disabilities.

DATES: These priorities are effective August 9, 1999.

FOR FURTHER INFORMATION CONTACT: Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3418, Switzer Building, Washington, D.C. 20202–2645. Telephone: (202) 205–5880. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–2742. Internet: Donna__Nangle@ed.gov

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Waiver of Rulemaking

Pursuant to section 437(d)(1) of the General Education Provisions Act, the Secretary has determined that this priority is exempt from the Administrative Procedure Act (5 U.S.C. 553). Section 437(d)(1) exempts from rulemaking the first grant competition under a new or substantially revised program authority. This is NIDRR's first grant competition under the Assistive Technology Act (AT Act) of 1998, which replaces the Technology-Related Assistance for Individuals with Disabilities Act of 1998, as amended, (Tech Act), and was signed into law on November 13, 1998.

SUPPLEMENTARY INFORMATION: This notice contains four final priorities under the AT Act Program. The priorities are: (1) Technical Assistance to Assistive Technology Act State Grant Program Grantees; (2) Technical Assistance to Assistive Technology Act Protection and Advocacy (P&A) Program Grantees; (3) Assistive Technology Act Data Collection Project; and (4) National Assistive Technology Internet Site.

These final priorities support the National Education Goal that calls for all Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

The authority for the Secretary to fund TA projects is contained in section 104 of the Assistive Technology Act of 1998.

Note: This notice of final priorities does not solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following the publication of the notice of final priorities.

Assistive Technology Act

Background

The AT Act of 1998 reaffirms the Federal role of promoting access to AT devices and services for individuals with disabilities. In 1988 Congress passed the Tech Act to assist States to identify and respond to the AT needs of individuals with disabilities. Reauthorized in 1994, the Tech Act was premised on the assumption that individuals with disabilities needed access to AT devices and services, and that Federal funds could function as a catalyst and as leverage to create permanent systemic change within State infrastructures that did, could, or should make AT devices and services more readily available to individuals with disabilities.

In addition to continuing the Assistive Technology State grant program and TA conducted under the Tech Act, the 1994 Tech Act amendments required each State grant to fund Protection and Advocacy (P&A) systems to assist individuals with disabilities access AT devices and services. The amendments also included standards of accountability to ensure that States would meet the Tech Act goals within the ten-year funding period and mandated the provision of information and TA to the AT State grant program grantees, individuals with disabilities, and other persons.

Although the AT State grant program under the Tech Act may have met many of the technology challenges related to individuals with disabilities, there is still a lack of: resources to pay for the AT devices and services; trained personnel to assist individuals with disabilities to use such devices and services; knowledge among targeted individuals about the availability and potential benefits of technology for individuals with disabilities; outreach to underrepresented and rural populations; systems that ensure timely acquisition and delivery of AT devices and services; coordination among State human services programs, and between such programs and private entities, particularly with respect to the transition between such programs and entities; and capacity in such programs to provide the necessary technology-related assistance.

There are changes in the delivery of AT devices and services that include the increased prevalence of managed care entities as payers for these devices and services; an increased focus on universal design; the increased importance of AT in employment, as more individuals with disabilities move from public assistance to work through training and on-the-job accommodations; the role and impact that new technologies have on how individuals with disabilities will learn about, access, and participate in programs or services that will affect their lives; and the increased role that telecommunications play in education, employment, health care, and social activities.

The AT Act was passed in recognition of the technology challenges that remain for individuals with disabilities. AT State grant programs have met some of these challenges, but there is a need for continuing Federal support to assist States to address these challenges in the most appropriate way, given its resources, expertise, experience, and approaches to assisting individuals with disabilities to access AT.

Description of Assistive Technology Act Technical Assistance Program

The purpose of the AT Act Technical Assistance Program is to address issues raised by States, individuals, P&A providers, and other relevant organizations; the purpose of the AT Act Data Collection Project is to collect data that will provide information about AT devices and services that can be used to identify effective practices and formulate policies; and the purpose of the National Assistive Technology Internet Site is to provide information that will facilitate increased access to AT devices, AT services and other disability-related resources.

Priorities

Under 34 CFR 75.105(c)(3), and Section 104 of the Assistive Technology Act of 1998, the Secretary gives an absolute preference to applications that meet the following priorities. The Secretary will fund under this competition only applications that meet these priorities.

Priority 1: Technical Assistance to Assistive Technology Act State Grant Program Grantees

The Secretary will establish a TA project that will provide assistance to the AT Act State Grant Program grantees to reduce barriers and increase access to AT devices and services for consumers with disabilities of all ages. The TA project will also provide TA to AT Act State Grant Program grantees in areas related to universal design, State procurement actions, and funding of AT. Consistent with statutory requirements, the project must:

(a) Respond to grantees' requests for and disseminate information about current Federal, State, and local laws, regulations, policies, practices, procedures, and organizational structures that increase access to AT devices and services;

(b) Identify and disseminate information to grantees about exemplary Federal-State coordination of programs related to improving funding for and access to AT devices and services;

(c) Identify and disseminate information to grantees about effective approaches to the development of consumer-controlled systems that increase access to, funding for, and awareness of AT devices and services; and

(d) Provide TA to grantees to help them develop corrective action plans if the Secretary determines that the grantee has failed to comply with the requirements of the AT Act.

In addition to the statutory requirements, the TA project must:

(e) Provide TA to grantees to assist with their implementation of the mandates of the AT Act;

(f) Develop and disseminate strategies that can be used to assist grantees to promote: (1) Universal design principles in the State's infrastructure in the built environment and the telecommunications and transportation environments; (2) compliance with section 508 of the Rehabilitation Act, as amended; (3) improvement of State policies for the financing of AT through public or private health insurance providers; and (4) modification of State revenue policy to increase the resource base for funding AT;

(g) Assist grantees to identify weaknesses within their individual State programs and provide programmatic solutions to the problems;

(h) Develop and maintain an accessible website that can be used by grantees to obtain, share, and disseminate information;

(i) Coordinate and share resources with the TA project to AT Act P&A Program grantees, the AT Act Data Collection project, and the National Assistive Technology Internet Site project about activities of mutual interest; and

(j) Develop and implement a self-assessment instrument to determine the effectiveness of this TA project.

Priority 2: Technical Assistance to Assistive Technology Act Protection and Advocacy Program Grantees

The Secretary will establish a TA project that will provide assistance to AT Act P&A Program grantees to assist individuals with disabilities of all ages in acquiring, utilizing, or maintaining AT devices or services. The TA project will also provide TA to the AT Act P&A Program grantees in areas related to participation by individuals with disabilities in informal advocacy and formal representation activities. Consistent with statutory requirements, the TA project must:

(a) Respond to grantees' requests for and disseminate information about current policies, practices, procedures, regulations, administrative hearing decisions or legal actions that can enhance access to and funding for AT devices and services; and

(b) Provide TA to grantees to help them develop corrective action plans if the Secretary determines that the grantee has failed to comply with the requirements of the AT Act.

In addition to the statutory requirements, the TA project must:

(c) Provide TA to grantees to identify weaknesses within their P&A programs and provide programmatic solutions to the problems;

(d) Develop and disseminate strategies to grantees to assist them to: (1) coordinate activities with P&A services funded through sources other than Section 102 of the AT Act; (2) participate in formal representation to assist individuals with disabilities in securing systems change and in increasing access to assistive technology devices and services; (3) participate in formal and informal advocacy to assist individuals with disabilities in securing AT devices and services; and (4) develop long-term abilities of individuals with disabilities and their family members, guardians, advocates and authorized representatives to advocate for the provision of AT devices and services to which the individuals with disabilities are entitled under laws other than the AT Act;

(e) Develop and maintain an accessible website that can be used by grantees to obtain, share and disseminate information;

(f) Coordinate and share resources with the TA project to AT Act State Grant Program Grantees, the AT Act Data Collection Project and the National Assistive Technology Internet Site Project about activities of mutual interest; and

(g) Develop and implement a self-assessment instrument to determine the effectiveness of this TA project.

Priority 3: Assistive Technology Act Data Collection Project

The Secretary will establish a Data Collection Project for the purpose of collecting data from the AT Act State Grant Program grantees and the AT Act P&A Program grantees that can provide policy-relevant information to Federal, State and local decision makers about the availability, use and reliability of AT devices and services and exemplary practices to improving access to AT services and devices. The data collection project must:

(a) Develop and implement a process for producing performance standards for the assessment of AT State Program grantees;

(b) Design a web-based data collection and analysis system, including a data collection instrument, to collect data required to assess performance;

(c) Train entities funded under the AT Act in the use of the data collection system;

(d) Generate evaluative reports from the data and prepare an annual report on performance;

(e) Identify and evaluate model approaches to increased access to AT;

(f) Conduct one or more evaluation studies on specific aspects of the use of AT by persons with disabilities;

(g) Coordinate and share resources with the TA projects to the AT Act State Grant Program grantees, the AT Act P&A Program grantees and the National Assistive Technology Internet Site about activities of mutual interest; and

(h) Develop and implement a self assessment instrument that will be used to determine the effectiveness of the data collection project.

Priority 4: National Assistive Technology Internet Site

The Secretary will establish a National Assistive Technology Internet Site for the purpose of providing to individuals with disabilities and the general public TA and information that will increase access to AT devices, AT services, and other disability-related resources. Consistent with statutory requirements, the Internet site must:

(a) Develop, implement and maintain an accessible public Internet site that incorporates an innovative automated

intelligent agent to assist users in problem definition and selection of appropriate AT devices and services resources;

(b) Provide Internet access to a comprehensive, accessible library (i.e. database) of information on AT and rehabilitation equipment, such as ABLEDATA, available for all environments including home, workplace, and transportation;

(c) Identify and maintain electronic links to appropriate and accessible public and private resources and information related to all types of disabilities, including low-level reading skills, all funded AT Act Programs, the National Center for the Dissemination of Disability Research, and the National Rehabilitation Information Center; and

(d) Identify and maintain electronic links to programs of excellence in areas such as information and referral, outreach, coordination, capacity building, public awareness, training, data collection, consumer control, funding and demonstrations sites.

In addition to the statutory requirements, the Internet site must:

(e) Provide TA to AT Act State Grant Program grantees and other entities funded under the AT Act, as appropriate, on accessible website development;

(f) Coordinate and share resources with the TA projects to the AT Act State Grant Program grantees and AT Act P&A Program grantees, the AT Act Data Collection Project, and NIDRR-funded Dissemination and Utilization projects about activities of mutual interest; and

(g) Develop and implement a self-assessment instrument that will be used to determine the effectiveness of the Internet site.

Electronic Access to This Document

You may review this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the PDF you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO) toll free at 1–888–293–6498; or in the Washington, D.C., area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO access at:

http://www.access.gpo.gov/nara/index.html

(Catalog of Federal Domestic Assistance Number 84.224B, Assistive Technology Act Technical Assistance Program)

Program Authority: 29 U.S.C. 3001.

Dated: June 30, 1999.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 99–17135 Filed 7–8–99; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

[CFDA No.: 84.224B]

Office of Special Education and Rehabilitative Services, National Institute on Disability and Rehabilitation Research; Notice Inviting Applications and Pre-Application Meeting for New Awards Under the Assistive Technology Act Technical Assistance Program for Fiscal Year 1999

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the programs and applicable regulations governing the programs, including the Education Department General Administrative Regulations (EDGAR), this notice contains information, application forms, and instructions needed to apply for a grant under these competitions.

This program supports the National Education Goal that calls for all Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

The estimated funding levels in this notice do not bind the Department of Education to make awards in any of these categories, or to any specific number of awards or funding levels, unless otherwise specified in statute.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 80, 81, 82, 85, and 86.

Program Title: Assistive Technology Act (AT Act) Technical Assistance Program.

CFDA Number: 84.224B.

Purpose of Program: The purpose of the AT Act Technical Assistance Program is to address issues raised by States, individuals, Protection and Advocacy providers, and other relevant organizations; collect data that will provide information about assistive technology devices and services that can be used for determining policy; provide information on increased access to assistive technology devices, assistive technology services and other disability-related resources.

Eligible Applicants: Parties eligible to apply for technical assistance grants shall have documented experience with and expertise in assistive technology service delivery or systems, interagency coordination, and capacity building and advocacy activities.

Parties eligible to apply for a grant under priorities 1, 2, and 3 are States, public or private agencies, including for-profit agencies, public or private organizations, including for-profit organizations, institutions of higher education, and Indian tribes and tribal organizations.

Parties eligible to apply for a grant under priority 4, the National Assistive Technology Internet Site, are institutions of higher education that emphasize research and engineering, have a multidisciplinary research center, and have demonstrated expertise in working with assistive technology and intelligent agent interactive information dissemination systems; managing libraries of assistive technology and disability-related resources; delivering education, information, and referral services to individuals with disabilities, including technology-based curriculum development services for adults with low-level reading skills; developing cooperative partnerships with the private sector, particularly with private sector computer software, hardware, and Internet services entities; and developing and designing advanced Internet sites.

APPLICATION NOTICE FOR FISCAL YEAR 1999 AT ACT TECHNICAL ASSISTANCE PROGRAM, CFDA NO. 84.224B

Funding priority	Deadline for transmittal of applications	Estimated number of awards	Maximum award amount (per fiscal year)*	Project period (months)
84.224B–1, Technical Assistance to AT Act State Grant Program Grantees.	9/7/99	1	FY 1999, $638,000; FY 2000, $600,000; FY 2001, $600,000.	36

APPLICATION NOTICE FOR FISCAL YEAR 1999 AT ACT TECHNICAL ASSISTANCE PROGRAM, CFDA NO. 84.224B—Continued

Funding priority	Deadline for transmittal of applications	Estimated number of awards	Maximum award amount (per fiscal year)*	Project period (months)
84.224B–2, Technical Assistance to AT Act Protection and Advocacy Program Grantees.	9/7/99	1	FY 1999, $200,000; FY 2000, $175,000; FY 2001, $175,000.	36
84.224B–3, AT Act Data Collection Project ...	9/7/99	1	FY 1999, $338,000; FY 2000, $305,000; FY 2001, $305,000; FY 2002, $305,000.	48
84.224B–4, National Assistive Technology Internet Site.	9/7/99	1	FY 1999, $352,000; FY 2000, $300,000; FY 2001, $300,000.	36

* **Note:** The Secretary will reject without consideration or evaluation any application that proposes a project funding level that exceeds the stated maximum award amount per year (See 34 CFR 75.104(b)).

Pre-application Meeting: This notice invites interested parties to participate in a pre-application meeting to discuss the funding priorities and receive technical assistance through individual consultation and information about the funding priorities. The pre-application meeting for the Technical Assistance to AT Act State Grant Program grantees and the Technical Assistance to AT Act Protection and Advocacy Program grantees will be held on July 21, 1999 at the Department of Education, Office of Special Education and Rehabilitative Services, Room 1002, Switzer Building, 330 C Street, S.W., Washington, D.C. between 9 a.m. and 11 p.m. NIDRR staff will also be available from 12 p.m. to 3 p.m. on that same day to provide technical assistance through individual consultation and information about the funding priorities. The pre-application meeting for the AT Act Data Collection Project and the National Assistive Technology Internet Site will be held on July 22, 1999 at the Department of Education, Office of Special Education and Rehabilitative Services, Room 1002, Switzer Building, 330 C Street, S.W., Washington, D.C. between 9 a.m. and 11 a.m. NIDRR staff will also be available from 12 p.m. to 3 p.m. on that same day to provide technical assistance through individual consultation and information about the funding priorities. For further information contact Judith Fein, U.S. Department of Education, room 3430, Switzer Building, 330 C Street, S.W., Washington, D.C. 20202, or call (202) 205–8116. Individuals who use a telecommunications device (TDD) may call the TDD number at (202) 205–5516. NIDRR will make alternate arrangements to accommodate interested parties who are unable to attend the pre-application meeting in person.

Assistance to Individuals with Disabilities at the Public Meeting

The meeting site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (e.g., interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although we will attempt to meet a request we receive after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Selection Criteria: The Secretary uses the following selection criteria to evaluate applications for priorities under the Assistive Technology Act of 1998. (See 34 CFR 75.210)

(a) *Significance* (8 points total).

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the extent to which the results of the proposed project are to be disseminated in ways that will enable others to use the information or strategies.

(b) *Quality of the project design* (35 points total).

(1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable (12 points).

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs (10 points).

(iii) The extent to which the proposed project represents an exceptional approach to the priority or priorities established for the competition (8 points).

(iv) The extent to which the proposed project will be coordinated with similar or related efforts, and with other appropriate community, State, and Federal resources (5 points).

(c) *Quality of project services* (16 points total).

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible proposed project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (5 points).

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services (5 points).

(ii) The extent to which the technical assistance services to be provided by the proposed project involve the use of efficient strategies, including the use of technology, as appropriate, and the leveraging of non-project resources (6 points).

(d) *Quality of project personnel* (12 points total).

(1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of proposed project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (3 points).

(3) In addition, the Secretary considers the following factors:

(i) The qualifications, including relevant training and experience, of the project director or principal investigator (5 points).

(ii) The qualifications, including relevant training and experience, of key project personnel (4 points).

(e) *Adequacy of resources* (6 points total).

(1) The Secretary considers the adequacy of resources for the proposed project.

(2) In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization (3 points).

(ii) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project (3 points).

(f) *Quality of the management plan* (11 points total).

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timeliness, and milestones for accomplishing project tasks (6 points).

(ii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project (5 points).

(g) *Quality of the project evaluation* (12 points total).

(1) The Secretary considers the quality of the evaluation to be conducted by the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project (6 points).

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible (6 points).

Instructions for Application Narrative: The Secretary will reject without consideration or evaluation any application that proposes a project funding level that exceeds the stated maximum award amount per year (See 34 CFR 75.104(b)).

The Secretary strongly recommends the following:

(a) A one-page abstract;

(b) An Application Narrative (i.e., Part III that addresses the selection criteria that will be used by reviewers in evaluating individual proposals) of no more than 75 pages double-spaced (no more than 3 lines per vertical inch) 8.5 x 11″ pages (on one side only) with one inch margins (top, bottom, and sides). The application narrative page limit recommendation does not apply to: Part I—the electronically scannable form; Part II—the budget section (including the narrative budget justification); and Part IV—the assurances and certifications; and

(c) A font no smaller than a 12-point font and an average character density no greater than 14 characters per inch.

Instructions for Transmittal of Applications:

(a) If an applicant wants to apply for a grant, the applicant must—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # [Applicant must insert number and letter]), Washington, D.C. 20202–4725, or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. [Washington, D.C. time] on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # [Applicant must insert number and letter]), Room #3633, Regional Office Building #3, 7th and D Streets, S.W., Washington, D.C.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes

(1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) An applicant wishing to know that its application has been received by the Department must include with the application a stamped self-addressed postcard containing the CFDA number and title of this program.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and letter, if any—of the competition under which the application is being submitted.

Application Forms and Instructions

The appendix to this application is divided into four parts. These parts are organized in the same manner that the submitted application should be organized. These parts are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

Part II: Budget Form—Non-Construction Programs (Standard Form 524A) and instructions.

Part III: Application Narrative.

Additional Materials

Estimated Public Reporting Burden.

Assurances—Non-Construction Programs (Standard Form 424B).

Certification Regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters, and Drug-Free Work-Place Requirements (ED Form 80–0013).

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form 80–0014) and instructions.

Note: ED Form GCS–014 is intended for the use of primary participants and should not be transmitted to the Department.

Certification of Eligibility for Federal Assistance in Certain Programs (ED Form 80–0016)

Disclosure of Lobbying Activities (Standard Form LLL (if applicable) and instructions; and Disclosure Lobbying Activities Continuation Sheet (Standard Form LLL–A).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature. No grant may be awarded unless a completed application form has been received.

For Applications Contact: The Grants and Contracts Service Team (GCST), Department of Education, 400 Maryland Avenue S.W., room 3317 Switzer Building, Washington, D.C. 20202, or call (202) 205–8207. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–9860. The preferred method for requesting information is to FAX your request to (202) 205–8717.

Individuals with disabilities may obtain a copy of the application package

in an alternate format by contacting the GCST. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

FOR FURTHER INFORMATION CONTACT: Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, S.W., room 3418, Switzer Building, Washington, D.C. 20202–2645. Telephone: (202) 205–5880. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–9136. Internet: donna__nangle@ed.gov.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

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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 (GPO) toll free at 1–888–293–6498; or in the Washington, D.C. area at (202) 512–1530.

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(Catalog of Federal Domestic Assistance Number 84.224B, Assistive Technology Act Technical Assistance Program)

Program Authority: 29 U.S.C. 3001.

Dated: July 1, 1999.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

Appendix—Application Forms and Instructions

Applicants are advised to reproduce and complete the application forms in this Section. Applicants are required to submit an original and two copies of each application as provided in this Section. However, applicants are encouraged to submit an original and seven copies of each application in order to facilitate the peer review process and minimize copying errors.

Frequent Questions

1. Can I Get an Extension of the Due Date?

No! On rare occasions the Department of Education may extend a closing date for all applicants. If that occurs, a notice of the revised due date is published in the **Federal Register**. However, there are no extensions or exceptions to the due date made for individual applicants.

2. What Should Be Included in the Application?

The application should include a project narrative, vitae of key personnel, and a budget, as well as the Assurances forms included in this package. Vitae of staff or consultants should include the individual's title and role in the proposed project, and other information that is specifically pertinent to this proposed project. The budgets for both the first year and all subsequent project years should be included.

If collaboration with another organization is involved in the proposed activity, the application should include assurances of participation by the other parties, including written agreements or assurances of cooperation.

If the applicant proposes to use unique tests or other measurement instruments that are not widely known in the field, it would be helpful to include the instrument in the application.

Many applications contain voluminous appendices that are not helpful and in many cases cannot even be mailed to the reviewers. It is generally not helpful to include such things as brochures, general capability statements of collaborating organizations, maps, copies of publications, or descriptions of other projects completed by the applicant.

3. What Format Should Be Used for the Application?

NIDRR generally advises applicants that they may organize the application to follow the selection criteria that will be used. The specific review criteria vary according to the specific program, and are contained in this Consolidated Application Package.

4. May I Submit Applications to More Than One NIDRR Program Competition or More Than One Application to a Program?

Yes, you may submit applications to any program for which they are responsive to the program requirements. You may submit the same application to as many competitions as you believe appropriate. You may also submit more than one application in any given competition.

5. What Is the Allowable Indirect Cost Rate?

An applicant is limited to the organization's approved indirect rate. If the organization does not have an approved indirect rate, the application should include an estimated actual rate.

6. Can Profit Making Businesses Apply for Grants?

Yes. However, for-profit organizations will not be able to collect a fee or profit on the grant, and in some programs will be required to share in the costs of the project.

7. Can Individuals Apply for Grants?

No. Only organizations are eligible to apply for *grants* under NIDRR programs.

8. Can NIDRR Staff Advise Me Whether My Project Is of Interest to NIDRR or Likely To Be Funded?

No. NIDRR staff can advise you of the requirements of the program in which you propose to submit your application. However, staff cannot advise you of whether your subject area or proposed approach is likely to receive approval.

9. How Do I Assure That My Application Will Be Referred to the Most Appropriate Panel for Review?

Applicants should be sure that their applications are referred to the correct competition by clearly including the competition title and CFDA number, including alphabetical code, on the Standard Form 424, and including a project title that describes the project.

10. How Soon After Submitting My Application Can I Find Out if It Will Be Funded?

The time from closing date to grant award date varies from program to program. Generally speaking, NIDRR endeavors to have awards made within five to six months of the closing date. Unsuccessful applicants generally will be notified within that time frame as well. For the purpose of estimating a project start date, the applicant should estimate approximately six months from the closing date, but no later than the following September 30.

11. Can I Call NIDRR To Find Out if My Application Is Being Funded?

No. When NIDRR is able to release information on the status of grant applications, it will notify applicants by letter. The results of the peer review cannot be released except through this formal notification.

12. If My Application Is Successful, Can I Assume I Will Get the Requested Budget Amount in Subsequent Years?

No. Funding in subsequent years is subject to availability of funds and project performance.

13. Will All Approved Applications Be Funded?

No. It often happens that the peer review panels approve for funding more applications than NIDRR can fund within available resources. Applicants who are approved but not funded are encouraged to consider submitting similar applications in future competitions.

BILLING CODE 4000–01–U

Application for Federal Education Assistance

Note: If available, please provide application package on diskette and specify the file format.

U.S. Department of Education

Form Approved OMB No. 1875-0106 Exp. 06/30/2001

Applicant Information

1. Name and Address

Legal Name:_____

Address:_____

City _____ State _____ County _____ ZIP Code + 4 _____ - _____

Organizational Unit

2. Applicant's D-U-N-S Number

3. Catalog of Federal Domestic Assistance #: 8 4 ➡ Title:_____

4. Project Director:_____

Address:_____

City _____ State _____ ZIP Code + 4 _____ - _____

Tel. #: ( ) _____ - _____ Fax #: ( ) _____ - _____

E-Mail Address:_____

5. Is the applicant delinquent on any Federal debt? ☐ Yes ☐ No

(If "Yes," attach an explanation.)

6. Type of Applicant *(Enter appropriate letter in the box.)* ☐

A State
B County
C Municipal
D Township
E Interstate
F Intermunicipal
G Special District
H Independent School District
I Public College or University
J Private, Non-Profit College or University
K Indian Tribe
L Individual
M Private, Profit-Making Organization
N Other *(Specify)*:_____

7. Novice Applicant ☐ Yes ☐ No

Application Information

8. Type of Submission:

—*PreApplication*	—*Application*
☐ Construction	☐ Construction
☐ Non-Construction	☐ Non-Construction

9. Is application subject to review by Executive Order 12372 process?

☐ Yes *(Date made available to the Executive Order 12372 process for review):* ___/___/_____

☐ No *(If "No," check appropriate box below.)*

☐ Program is not covered by E.O. 12372.

☐ Program has not been selected by State for review.

10. Proposed Project Dates:

Start Date:	End Date:
___/___/_____	___/___/_____

11. Are any research activities involving human subjects planned at any time during the proposed project period? ☐ Yes ☐ No

a. If "Yes," Exemption(s) #:

OR

b. Assurance of Compliance #:

c. IRB approval date: _____ ☐ Full IRB or ☐ Expedited Review

12. Descriptive Title of Applicant's Project:

Estimated Funding

13a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

Authorized Representative Information

14. To the best of my knowledge and belief, all data in this preapplication/application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Typed Name of Authorized Representative

b. Title

c. Tel. #: ( ) _____ - _____ Fax #: ( ) _____ - _____

d. E-Mail Address:

e. Signature of Authorized Representative

Date: ___/___/_____

REV. 1/12/99

ED 424

Instructions for ED 424

1. **Legal Name and Address.** Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. **D-U-N-S Number.** Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505 or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: **http://www.dnb.com/dbis/aboutdb/intlduns.htm.**

3. **Catalog of Federal Domestic Assistance (CFDA) Number.** Enter the CFDA number and title of the program under which assistance is requested.

4. **Project Director.** Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

5. **Federal Debt Delinquency.** Check **"Yes"** if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check **"No."**

6. **Type of Applicant.** Enter the appropriate letter in the box provided.

7. **Novice Applicant.** Check **"Yes"** only if assistance is being requested under a program that gives special consideration to novice applicants and you meet the program requirements for novice applicants. By checking "Yes" the applicant certifies that it meets the novice applicant requirements specified by ED. Otherwise, check **"No."**

8. **Type of Submission.** Self-explanatory.

9. **Executive Order 12372.** Check "Yes" if the application is subject to review by Executive Order 12372. Also, please enter the month, date, and four (4) digit year (e.g., 12/12/2000). 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. Otherwise, check **"No."**

10. **Proposed Project Dates.** Please enter the month, date, and four (4) digit year (e.g., 12/12/2000).

11. **Human Subjects.** Check "Yes" or "No". If research activities involving human subjects are not planned at any time during the proposed project period, check **"No." The remaining parts of item 11 are then not applicable.**

    If research activities involving human subjects, whether or not exempt from Federal regulations for the protection of human subjects, are planned at any time during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution, check **"Yes."** If all the research activities are designated to be exempt under the regulations, enter, in item 11a, the exemption number(s) corresponding to one or more of the six exemption categories listed in **"Protection of Human Subjects in Research"** attached to this form. Provide sufficient information in the application to allow a determination that the designated exemptions in item 11a, are appropriate. **Provide this narrative information in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page. Skip the remaining parts of item 11.**

    If some or all of the planned research activities involving human subjects are covered (nonexempt), skip item 11a and continue with the remaining parts of item 11, as noted below. In addition, follow the instructions in **"Protection of Human Subjects in Research"** attached to this form to prepare the six-point narrative about the nonexempt activities. **Provide this six-point narrative in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

    If the applicant organization has an approved Multiple Project Assurance of Compliance on file with the Grants Policy and Oversight Staff (GPOS), U.S. Department of Education, or with the Office for Protection from Research Risks (OPRR), National Institutes of Health, U.S. Department of Health and Human Services, that covers the specific activity, enter the Assurance number in item 11b and the date of approval by the Institutional Review Board (IRB) of the proposed activities in item 11c. This date must be no earlier than one year before the receipt date for which the application is submitted and must include the four (4) digit year (e.g., 2000). Check the type of IRB review in the appropriate box. An IRB may use the expedited review procedure if it complies with the requirements of 34 CFR 97.110. If the IRB review is delayed beyond the submission of the application, enter **"Pending"** in item 11c. If your application is recommended/selected for funding, a follow-up certification of IRB approval from an official signing for the applicant organization must be sent to and received by the designated ED official within 30 days after a specific formal request from the designated ED official. **If the applicant organization does not have** on file with GPOS or OPRR **an approved Assurance of Compliance** that covers the proposed research activity, enter **"None"** in item 11b and skip 11c. In this case, the applicant organization, by the signature on the application, is declaring that it will comply with 34 CFR 97 within 30 days after a specific formal request from the designated ED official for the Assurance(s) and IRB certifications.

12. **Project Title.** 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.

13. **Estimated Funding.** 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 13.

14. **Certification.** 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.

    Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 14e, please enter the month, date, and four (4) digit year (e.g., 12/12/2000) in the date signed field.

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1875-0106**. The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 20202-4651. **If you have comments or concerns regarding the status of your individual submission of this form write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725.

PROTECTION OF HUMAN SUBJECTS IN RESEARCH
(Attachment to ED 424)

I. Instructions to Applicants about the Narrative Information that Must be Provided if Research Activities Involving Human Subjects are Planned

If you marked item 11 on the application "Yes" and designated exemptions in 11a, **(all research activities are exempt)**, provide sufficient information in the application to allow a determination that the designated exemptions are appropriate. Research involving human subjects that is exempt from the regulations is discussed under **II.B. "Exemptions,"** below. The Narrative must be succinct. **Provide this information in an "Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

If you marked "Yes" to item 11 on the face page, and designated no exemptions from the regulations **(some or all of the research activities are nonexempt)**, address the following six points for each nonexempt activity. In addition, if research involving human subjects will take place at collaborating site(s) or other performance site(s), provide this information before discussing the six points. Although no specific page limitation applies to this section of the application, be succinct. Provide the six-point narrative and discussion of other performance sites in an **"Item 11/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

(1) Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable.

(2) Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

II. Information on Research Activities Involving Human Subjects

A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Is it a research activity?

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." *If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, such as an exploratory study or the collection of data to test a hypothesis, it is research.* Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

—Is it a human subject?

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." *(1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met.* [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions.

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of ***exemptions*** are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. ***If the subjects are children, this exemption applies only to research involving educational tests or observations of public behavior when the investigator(s) do not participate in the activities being observed.*** [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S Department of Agriculture.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff (GPOS) Office of the Chief Financial and Chief Information Officer, U.S. Department of Education, Washington, D.C., telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://ocfo.ed.gov/humansub.htm.

OMB Approval No. 0348-0040

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes, regardless of Federal participation in purchases.

8. Will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §§874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1721 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

U.S. DEPARTMENT OF EDUCATION BUDGET INFORMATION NON-CONSTRUCTION PROGRAMS	OMB Control No. 1880--0538 Expiration Date: 10/31/99
Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED FORM NO. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED FORM NO. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours per response, including the time reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington DC 20503.

INSTRUCTIONS FOR ED FORM 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary
U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary
Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information
Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

Public reporting burden for these collections of information is estimated to average 30 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding this burden estimate or any other aspect of these collections of information, including suggestions for reducing this burden, to: the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202–4651; and to the Office of Management and Budget, Paperwork Reduction Project 1820–0027, Washington, D.C. 20503.

Assistive Technology Act Technical Assistance Program (CFDA No. 84.224B).

BILLING CODE 4000–01–U

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110--

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about-

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will-

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such

conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted-

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

Certification of Eligibility for Federal Assistance in Certain Programs

I understand that 34 CFR 75.60, 75.61, and 75.62 require that I make specific certifications of eligibility to the U.S. Department of Education as a condition of applying for Federal funds in certain programs and that these requirements are in addition to any other eligibility requirements that the U.S. Department of Education imposes under program regulations. Under 34 CFR 75.60 – 75.62:

I. I certify that

A. I do not owe a debt, or I am current in repaying a debt, or I am not in default (as that term is used at 34 CFR Part 668) on a debt:

1. To the Federal Government under a nonprocurement transaction (e.g., a previous loan, scholarship, grant, or cooperative agreement); or

2. For a-fellowship, scholarship, stipend, discretionary grant, or loan in any program of the U.S. Department of Education that is subject to 34 CFR 75.60, 75.61, and 75.62, including:

- Federal Pell Grant Program (20 U.S.C. 1070a, et seq.);
- Federal Supplemental Educational Opportunity Grant (SEOG) Program (20 U.S.C. 1070(b), et seq.):
- State Student Incentive Grant Program (SSIG) 20 U.S.C. 1070c, et seq.);
- Federal Perkins Loan Program (20 U.S.C. 1087aa, et seq.);
- Income Contingent Direct Loan Demonstration Project (20 U.S.C. 1087a, note);
- Federal Stafford Loan Program, Federal Supplemental Loans for Students [SLS], Federal PLUS, or Federal Consolidation Loan Program (20 U.S.C. 1071, et seq.);
- Cuban Student Loan Program (20 U.S.C. 2601, et seq.);
- Robert C. Byrd Honors Scholarship Program (20 U.S.C. 1070d-31, et seq.);
- Jacob K. Javits Fellows Program (20 U.S.C. 1134h-1134l);
- Patricia Roberts Harris Fellowship Program (20 U.S.C. 1134d-1134g);
- Christa McAuliffe Fellowship Program (20 U.S.C. 1105-1105i);
- Bilingual Education Fellowship Program (20 U.S.C. 3221-3262);
- Rehabilitation Long-Term Training Program (29 U.S.C. 774(b));
- Paul Douglas Teacher Scholarship Program (20 U.S.C. 1104, et seq.);
- Law Enforcement Education Program (42 U.S.C. 3775);
- Indian Fellowship Program (29 U.S.C. 774(b));

OR

B. I have made arrangements satisfactory to the U.S. Department of Education to repay a debt as described in A.1. or A.2. (above) on which I had not been current in repaying or on which I was in default (as that term is used in 34 CFR Part 668).

II. I certify also that I have not been declared by a judge, as a condition of sentencing under section 5301 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 862), ineligible to receive Federal assistance for the period of this requested funding.

I understand that providing a false certification to any of the statements above makes me liable for repayment to the U.S. Department of Education for funds received on the basis of this certification, for civil penalties, and for criminal prosecution under 18 U.S.C. 1001.

_____ _____

(Signature) (Date)

_____

(Typed or Printed Name)

Name or number of the USDE program under which this certification is being made: _____

ED 80-0016 (9/92)

OMB Control No. 1801-0004 (Exp. 8/31/2001)

NOTICE TO ALL APPLICANTS

The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is Section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103-382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new grant awards under this program. **ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.**

(If this program is a State-formula grant program, a State needs to provide this description only for projects or activities that it carries out with funds reserved for State-level uses. In addition, local school districts or other eligible applicants that apply to the State for funding need to provide this description in their applications to the State for funding. The State would be responsible for ensuring that the school district or other local entity has submitted a sufficient section 427 statement as described below.)

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its Federally-assisted program for students, teachers, and other program beneficiaries with special needs. This provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation in, the Federally-funded project or activity. The description in your application of steps to be taken to overcome these barriers need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with Section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement for GEPA Requirements

The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, DC 20202-4651.

Approved by OMB
0348-0046

Disclosure of Lobbying Activities

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

1. Type of Federal Action: a. contract ____ b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	**2. Status of Federal Action:** a. bid/offer/application _____ b. initial award c. post-award	**3. Report Type:** a. initial filing _____ b. material change **For material change only:** Year _____ quarter _____ Date of last report_____
4. Name and Address of Reporting Entity: ____ Prime _____ Subawardee Tier_____, if Known: **Congressional District, if known:**	**5. If Reporting Entity in No. 4 is Subawardee,** Enter Name and Address of Prime: **Congressional District, if known:**	
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____	
8. Federal Action Number, *if known:*	**9. Award Amount,** *if known:* **$**	
10. a. Name and Address of Lobbying Registrant *(if individual, last name, first name, MI):*	**b. Individuals Performing Services** *(including address if different from No. 10a)* *(last name, first name, MI):*	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	**Signature:** _____ **Print Name:**_____ **Title:**_____ **Telephone No.:** _____ **Date:** _____	
Federal Use Only	**Authorized for Local Reproduction** **Standard Form - LLL (Rev. 7-97)**	

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503

[FR Doc. 99–17136 Filed 7–8–99; 8:45 am]
BILLING CODE 4000–01–C

Federal Register

Friday
July 9, 1999

Part IX

The President

Proclamation 7208—To Facilitate Positive Adjustment to Competition From Imports of Lamb Meat

Federal Register
Vol. 64, No. 131
Friday, July 9, 1999

Presidential Documents

Title 3—

The President

Proclamation 7208 of July 7, 1999

To Facilitate Positive Adjustment to Competition From Imports of Lamb Meat

By the President of the United States of America

A Proclamation

1. On April 5, 1999, the United States International Trade Commission (USITC) transmitted to the President a unanimous affirmative determination in its investigation under section 202 of the Trade Act of 1974, as amended (the ''Trade Act'') (19 U.S.C. 2252), with respect to imports of fresh, chilled, or frozen lamb meat, provided for in heading 0204 of the Harmonized Tariff Schedule of the United States (HTS). Under section 202 of the Trade Act, the USITC determined that such lamb meat is being imported into the United States in such increased quantities as to be a substantial cause of the threat of serious injury to the domestic industry producing a like or directly competitive article. Further, the USITC, pursuant to section 311(a) of the North American Free Trade Agreement Implementation Act (the ''NAFTA Implementation Act'') (19 U.S.C. 3371(a)), made negative findings with respect to imports of lamb meat from Canada and Mexico. The USITC also transmitted to the President its recommendation made pursuant to section 202(e) of the Trade Act with respect to the action that would address the threat of serious injury to the domestic industry and be most effective in facilitating the efforts of the domestic industry to make a positive adjustment to import competition.

2. Pursuant to section 203 of the Trade Act (19 U.S.C. 2253), and after taking into account the considerations specified in section 203(a)(2) of the Trade Act, I have determined to implement action of a type described in section 203(a)(3). However, pursuant to section 312(a) of the NAFTA Implementation Act (19 U.S.C. 3372(a)), I have determined that imports from Canada and Mexico, considered individually, do not account for a substantial share of total imports and do not contribute importantly to the threat of serious injury found by the USITC. Accordingly, pursuant to section 312(b) of the NAFTA Implementation Act (19 U.S.C. 3372(b)), I have excluded lamb meat the product of Canada or Mexico from the action I am taking under section 203 of the Trade Act.

3. Such action shall take the form of a tariff-rate quota on imports of fresh, chilled, or frozen lamb meat, provided for in HTS subheadings 0204.10.00, 0204.22.20, 0204.23.20, 0204.30.00, 0204.42.20, and 0204.43.20, imposed for a period of 3 years plus 1 day, with annual increases in the within-quota quantities in the second and third years, as provided for in the annex to this proclamation.

4. Except for products of Canada, Mexico, Israel, beneficiary countries under the Caribbean Basin Economic Recovery Act (CBERA) and the Andean Trade Preference Act (ATPA), and other developing countries that have accounted for a minor share of lamb meat imports, which shall all be excluded from this restriction, such tariff-rate quota shall apply to imports of lamb meat from all other countries and the in-quota quantity in each year shall be allocated among such countries. Pursuant to section 203(a)(1)(A) of the Trade Act (19 U.S.C. 2253(a)(1)(A)), I have further determined that these actions will facilitate efforts by the domestic industry to make a positive adjustment

to import competition and provide greater economic and social benefits than costs.

5. Section 604 of the Trade Act, as amended (19 U.S.C. 2483), authorizes the President to embody in the HTS the substance of the relevant provisions of that Act, and of other acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to sections 203 and 604 of the Trade Act, and section 301 of title 3, United States Code, do proclaim that:

(1) In order to establish a tariff-rate quota on imports of fresh, chilled, or frozen lamb meat classified in HTS subheadings 0204.10.00, 0204.22.20, 0204.23.20, 0204.30.00, 0204.42.20, and 0204.43.20, subchapter III of chapter 99 of the HTS is modified as provided in the annex to this proclamation.

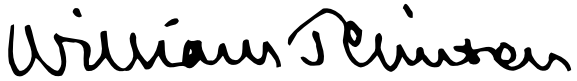
(2) Such imported lamb meat that is the product of Canada, Mexico, Israel, and of beneficiary countries under the CBERA and the ATPA, and of developing countries listed in general note 4(a) to the HTS, shall be excluded from the tariff-rate quota established by this proclamation, and such imports shall not be counted toward the tariff-rate quota limits that trigger the over-quota rates of duty.

(3) In the event that a quota quantity established by this proclamation and allocated to a country or to ''other countries'' is significantly underutilized, the United States Trade Representative is authorized to reallocate all or part of the unfilled portion of such quota quantity to any other country or countries and, upon publication of notice in the **Federal Register**, to modify the HTS provisions created by the annex to this proclamation to reflect any such reallocation.

(4) Any provisions of previous proclamations and Executive orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

(5) The modifications to the HTS made by this proclamation, including the annex hereto, shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after 12:01 a.m. e.d.t. on July 22, 1999, and shall continue in effect as provided in the annex to this proclamation, unless such actions are earlier expressly modified or terminated.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of July, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-fourth.



Billing code 3195–01–P

ANNEX
Modifications to the Harmonized Tariff Schedule of the United States

(a) Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after July 22, 1999, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by inserting in numerical sequence the following new U.S. note, subheadings and superior text thereto, with the language inserted in the columns entitled "Heading/Subheading", "Article Description", "Rates of Duty 1-General", "Rates of Duty 1-Special", and "Rates of Duty 2", respectively.

"8. For purposes of the subheadings enumerated below, the in-quota quantities for fresh, chilled or frozen lamb meat shall be allocated as follows:

Subheadings	Country or Countries	Allocation
9903.02.01	Australia	17,139,582
	New Zealand	14,481,603
	Other countries	229,966
9903.02.03	Australia	17,600,931
	New Zealand	14,871,407
	Other countries	236,155
9903.02.05	Australia	18,062,279
	New Zealand	15,261,210
	Other countries	242,346

	Carcasses and half-carcasses of lamb (provided for in subheading 0204.10.00 or 0204.30.00), other lamb cuts with bone in (provided for in subheading 0204.22.20 or 0204.42.20), and boneless lamb meat (provided for in subheading 0204.23.20 or 0204.43.20), all the foregoing fresh, chilled or frozen, except products of Canada, of Mexico, of Israel, of developing countries enumerated in general note 4(a) to this schedule, of beneficiary countries under the Caribbean Basin Economic Recovery Act (as enumerated in general note 7(a) to this schedule) or of beneficiary countries under the Andean Trade Preference Act (as enumerated in general note 11(a) to this schedule):		
	If entered during the period from July 22, 1999, through July 21, 2000 inclusive:		
9903.02.01	In quantities not in excess of 31,851,151 kg	9%	15.4¢/kg
9903.02.02	Other	40%	15.4¢/kg + 40%

	[Carcasses...:]		
	If entered during the period from July 22, 2000, through July 21, 2001, inclusive:		
9903.02.03	In quantities not in excess of 32,708,493 kg	6%	15.4¢/kg
9903.02.04	Other	32%	15.4¢/kg + 32%
	If entered during the period from July 22, 2001, through July 22, 2002, inclusive:		
9903.02.05	In quantities not in excess of 33,565,835 kg	3%	15.4¢/kg
9903.02.06	Other	24%	15.4¢/kg + 24%"

[FR Doc. 99–17749
[Filed 7–8–99; 11:48 am]
Billing code 3190–01–C

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