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Presidential Documents

Title 3—

The President

Presidential Determination No. 90–14 of March 14, 1990

Determination Pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as Amended

Memorandum for the Secretary of State

Pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as amended, 22 U.S.C. 2601(c)(1), in order to meet unexpected urgent refugee and migration needs around the world, I hereby determine that it is important to the National interest that $24,950,000 be made available from the Emergency Refugee and Migration Assistance Fund (Emergency Fund) to meet unexpected urgent needs of refugees and conflict victims in Southeast Asia, Africa, and Central America. Of this $24,950,000, a U.S. contribution of $10 million would be made to the UN High Commissioner for Refugees (UNHCR) for the implementation of the Comprehensive Plan of Action in Southeast Asia; a U.S. contribution of $12.45 million to UNHCR for its programs in Africa ($5.25 million for its emergency programs in the Horn of Africa, $1 million for its programs in Angola and Zaire, $1.2 million for its program on behalf of refugees from Liberia, and $5 million for its life-support programs in Malawi); a U.S. contribution of $2 million to the International Committee of the Red Cross (ICRC) for its programs in the Horn of Africa; a U.S. contribution of $200,000 to the League of Red Cross and Red Crescent Societies (League) for its programs on behalf of Liberian refugees; and a U.S. contribution of $300,000 to ICRC for its protection, medical and relief programs in El Salvador and Panama. This will leave a balance of $24.9 million in the Fund.

You are authorized and directed to inform the appropriate committees of the Congress of this Determination and the obligation of funds under this authority, and to publish it in the **Federal Register**.

This Presidential Determination corrects Presidential Determination 90–13, which contained a clerical error and, therefore, was not published in the **Federal Register** or transmitted to Congress and is hereby cancelled.

George Bush

THE WHITE HOUSE,
Washington, March 14, 1990.

[FR Doc. 90–8920
Filed 4–12–90; 3:56 pm]
Billing code 3195–01–M

Presidential Documents

Presidential Determination No. 90–16 of March 31, 1990

Certification To Permit U.S. Contributions to the International Fund for Ireland and Northern Ireland

Memorandum for the Secretary of State

Pursuant to sections 4 and 5(c) of the Anglo-Irish Agreement Support Act of 1986 (P.L. 99–415), I hereby certify that: (1) the Board of the International Fund as established by the Anglo-Irish Agreement is, as a whole, broadly representative of the interests of the communities in Ireland and Northern Ireland; and (2) disbursements from the International Fund (a) will be distributed in accordance with the principle of equality of opportunity and nondiscrimination in employment without regard to religious affiliation; and (b) will address the needs of both communities in Northern Ireland.

You are authorized and directed to transmit this determination, together with the statement setting forth specific reasons therefor, to the Congress.

This determination shall be effective immediately and shall be published in the **Federal Register**.

George Bush

THE WHITE HOUSE,
Washington, March 31, 1990.

[FR Doc. 90–8921
Filed 4–12–90; 3:57 pm]
Billing code 3195–01–M

Rules and Regulations

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

RESOLUTION TRUST CORPORATION

12 CFR Part 1609

RIN 3205—AA03

Affordable Housing Disposition Program

AGENCY: Resolution Trust Corporation.

ACTION: Interim Rule; Request for comments.

SUMMARY: The Resolution Trust Corporation (RTC) is adopting an interim rule for the operation of the Affordable Housing Disposition Program in order to implement the provisions of section 21A(c) of the Federal Home Loan Bank Act as amended by section 501 of the Financial Institutions Reform, Recovery, and Enforcement Act "FIRREA" of 1989 (Pub. L. 101–73, 103 Stat. 183, 363), which, among other things, requires the establishment of a ninety-day marketing period for the disposition of eligible residential properties for which the RTC has title through its corporate capacity or as a receiver. The program is to provide homeownership and rental housing opportunities for moderate-income, lower-income, and very low-income families and individuals.

DATES: This interim rule is effective April 16, 1990, except for the collections of information described in §§ 1609.3, 1609.4, 1609.7 and 1609.8 which require the approval of the Office of Management and Budget under the Paperwork Reduction Act. Notice will be given when such approval is received. Comments on this interim rule must be submitted by June 15, 1990.

ADDRESSES: Comments should be mailed to John M. Buckley, Jr., Executive Secretary, Resolution Trust Corporation, 550 17th Street, NW., Washington, DC 20429.

FOR FURTHER INFORMATION CONTACT: Stephen S. Allen, Director, Affordable Housing disposition Program (202) 416–2846, or Muriel Watkins, Program Coordinator, Affordable Housing Disposition Program (202) 416–2824. [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this interim rule has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information contained in this interim rule should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for the RTC, with a copy to John R. Keiper, Jr., the Assistant Executive Secretary (Administration), Room 6069, FDIC, Washington, DC 20429.

The information collected pursuant to the interim rule will be used by the RTC to: (1) determine the capability of organizations wishing to act as a clearinghouse or technical assistance advisor under the Affordable Housing Disposition Program ("program"), (2) determine income eligibility of families and individuals who wish to purchase properties under the program, (3) evaluate whether offers to purchase properties satisfy RTC's statutory mandate to maximize the return to the government while preserving the availability and affordability of residential property for low- and moderate-income individuals, and (4) determine the appropriate rent levels for tenants living in properties purchased under the program.

The total estimated reporting burden for the collection of information in this regulation is summarized as follows:

Number of respondents 27,255;
number of responses per respondent varies;
total annual responses 27,255;
hours per response 3.434.

Interim rule

A. Purpose

This interim rule spells out the procedures that will be followed by the Resolution Trust Corporation (RTC) to sell eligible residential properties to qualifying purchasers under the provisions of FIRREA.

B. Background

FIRREA provides for a ninety-day marketing period during which RTC-owned eligible residential properties will be marketed in a manner which preserves their availability and affordability for low- and moderate-income families and individuals.

An interim marketing program was authorized by the RTC Oversight Board in the Strategic Plan for the Resolution Trust Corporation issued on December 31, 1989. It was intended to avoid keeping needed housing off the market and to avoid any further deterioration of the eligible properties while comprehensive guidelines were developed by the RTC and reviewed by the Oversight Board. Under the Strategic Plan, comprehensive guidelines are due to the Oversight Board by March 30, 1990. In an inventory of real estate owned by the RTC, issued on December 31, 1989, over 700 affordable housing properties were identified. On January 23, 1990, the sale of 100 single family properties in this inventory was authorized by the Oversight Board on a pilot basis.

With the publication of this interim rule, the RTC is authorized to sell additional eligible single family and multifamily residential properties. However, pending consideration of public comments received during the sixty (60) day comment period and pending promulgation of a final rule, the RTC will offer for sale not more than 1,000 eligible properties.

The Strategic Plan directs the RTC to report to the Oversight Board by May 30, 1990, on the effectiveness of the ninety-day marketing period in achieving FIRREA's housing goals. Based on its experience with the interim marketing program, the RTC is to make recommendations regarding the use of price discounts and concessionary financing in the sale of eligible residential properties. A proposed rule may be published for comment at that time dealing with the form of direct subsidies, if any.

C. Discussion of Interim Rule

1. Definitions

FIRREA defines very low-income, lower-income, and moderate-income

families and individuals for purposes of this program using three key concepts: "adjusted income," "area median income," and "adjustment for family size". Consistent with the statute, definitions of these and a number of other terms used in this rule are based on those used in HUD housing assistance programs.

Adjusted income is defined with reference to section 3 of the United States Housing Act 1937, 42 U.S.C. 1437a, and 24 CFR 813. The rule uses four different area median income figures to define terms for the program as follows: 50 percent of median income (to define very low-income families); 65 percent of median income (to define lower-income families for purposes of rental occupancy requirements); 80 percent (to define lower-income families); and 115 percent of median income (to define qualifying households).

Each income definition is adjusted for family size. HUD already publishes 50 percent and 80 percent of median income numbers for each metropolitan area and nonmetropolitan county in the country. In the case of nonmetropolitan areas, the applicable income limit is the greater of the area median income or the State nonmetropolitan median income. Both sets of numbers are adjusted for areas of unusually high or low family income and housing costs. Each set of numbers is adjusted somewhat differently for family size. After consultation with HUD, it was decided that the RTC would use HUD's 50 percent and 80 percent numbers, and that the RTC's 65 and 115 percent numbers would be computed based on HUD's 50 and 80 percent numbers respectively.

HUD has already published 1990 area median income numbers adjusted accordingly, and the RTC will make these numbers available in a handbook to those interested in the disposition of eligible properties, including clearinghouses, technical assistance advisors, real estate brokers and purchasers through its regional and consolidated offices. This handbook will contain all materials necessary to certify families and individuals to meet the various income limits applicable to purchasers or tenants under the Affordable Housing Disposition Program, including a form for determining adjusted income in accordance with 24 CFR 813.

The rule also includes definitions for eligible single family properties and eligible multifamily properties. "Eligible single family property" means a one- to four-family residence (including a condominium or manufactured home) owned by the RTC, in its corporate or receivership capacity, with a maximum value defined with reference to section 203(b)(2) of the National Housing Act, codified at 12 U.S.C. 1709(b)(2). Currently, under section 203(b)(2), the value of an eligible single family property may not exceed $67,500 for a one-family residence, $76,000 for a two-family residence, $92,000 for a three-family residence, and $107,000 for a four-family residence. An eligible multifamily property means a property consisting of more than four units owned by the RTC in its corporate or receivership capacity with a maximum value defined with reference to section 221(d)(3)(ii) of the National Housing Act, codified at 12 U.S.C. 1715(d)(3)(ii). Currently, its value may not exceed $29,500 for an efficiency, $33,816 for a one-bedroom unit, $41,120 for a two-bedroom unit, $52,195 for a three-bedroom unit, and $58,392 for a four or more bedroom unit.

2. Roles

RTC staff have consulted extensively with other Federal agencies, State and local housing agencies, low-income housing groups, and professional and trade associations in preparing this rule. FIRREA outlines a disposition process which involves clearinghouses serving to disseminate property information to eligible purchasers. Differing opinions exist over the appropriate role of clearinghouses under FIRREA. On the one hand, some groups conceive of a relatively limited role for clearinghouses essentially as disseminators of information. Other groups conceive of a broader role involving active outreach and provision of technical assistance to potential single and multifamily purchasers. FIRREA requires only that clearinghouses make information on eligible properties, provided by the RTC, available, upon request, to other public agencies, other nonprofit organizations, and qualifying households. The statute also identifies State housing finance agencies and units of the Federal Housing Finance Board as clearinghouses with other clearinghouses defined by reference to the types of national nonprofit organizations that may have an interest in serving as a clearinghouse.

The RTC recognizes that the goal of maximizing the preservation of the availability and affordability of residential real property for low- and moderate-income individuals calls for active efforts by various actors in the marekting process. Consequently, under the interim rule, in accordance with FIRREA, clearinghouses are required to serve as repositories of information on eligible residential properties and to disseminate information upon request. Clearinghouses are encouraged, but not required, to disseminate information on a regular basis to State and local public agencies, nonprofit organizations, for-profit entities, and organizations representing special population groups such as the homeless, disabled, handicapped, and elderly persons, and to publicize the availability of these properties through various media.

In addition, the rule authorizes the RTC to designate technical assistance advisors to perform such functions as qualifying single family property purchasers, assisting qualifying households to identify suitable properties and secure financing, assisting qualifying multifamily purchasers to identify suitable properties and secure financing, and providing other services. Technical assistance advisors (TAA) may include clearinghouse, State and local public agencies, and nonprofit organizations. Technical assistance advisors may be compensated for their services under a memorandum of understanding (MOU) with the RTC on a mutually agreed-upon basis. The services will vary with the RTC's needs and the TAA's capabilities and interest.

The RTC will enter into a listing agreement with a real estate broker for each eligible residential property. The broker will perform customary responsibilities including actively marketing the property, showing properties to potential purchasers, transmitting bids to the RTC for consideration, and concluding sales transactions. The listing agreement will provide for a negotiated brokerage commission.

The RTC will designate an affordable housing disposition specialist on the staff of each RTC regional and consolidated office. The specialist will be responsible for coordinating the sales of eligible residential properties in each office; designating and entering into MOUs with TAAs; listing properties with brokers and sending lists of eligible residential properties to clearinghouses with a Notice of Ninety-Day Marketing Period; monitoring the marketing efforts of clearinghouses, brokers and TAAs; identifying potential sources of financing for purchasers; coordinating RTC sales with those of other Federal agencies in the same market areas; collecting and reporting data on the marketing and sales of eligible residential properties; and performing other functions relating to the Affordable Housing Disposition Program.

The RTC will supplement the efforts of clearinghouses in disseminating information about eligible residential properties through publication of property lists, a computer bulletin board, a toll-free telephone number, and other marketing activities.

3. *Ninety-Day Marketing Period*

The RTC will send a Notice of Ninety-Day Marketing Period accompanied by a list of each eligible property available for sale to the clearinghouse[s] serving the area the property is located. The Notice of Ninety-Day Marketing Period will contain basic information on the property and a specific date for the start of the ninety-day marketing period. If a property is not sold within the ninety-day period, or in the case of multifamily property or a bulk purchase offer, if an expression of serious interest is not received within the ninety-day marketing period, the RTC may sell the property to any purchaser.

During the ninety-day marketing period, qualifying purchasers have the exclusive right to purchase, or with respect to multifamily properties, have the exclusive right to express serious interest in purchasing eligible residential properties.

Qualifying purchasers for single family properties include: qualifying households whose adjusted incomes do not exceed 115 percent of area median income, and who intend to occupy the property as a principal residence; and public agencies and nonprofit organizations who purchase the properties for rent or sale to families and individuals whose adjusted incomes do not exceed 80 percent of area median income. Each eligible single family property purchased by a public agency or nonprofit organization for rent to a lower-income family must be so restricted by deed or other recorded instrument which is binding upon successors in interest, with the proviso that the property may subsequently be sold to a lower-income family without further restriction.

Qualifying multifamily purchasers include public agencies, nonprofit organizations, and for-profit entities, which commit to meeting statutory lower-income occupancy requirements.

A qualifying multifamily purchaser who expresses a serious interest in making a bid on an eligible multifamily property will receive a Notice of Readiness for Sale from the RTC which invites the purchaser to submit to the RTC, within forty-five days, a bona fide offer to purchase the property. The bona fide offer must include a sales contract accompanied by a reasonable and customary earnest money deposit and a conditional commitment of financing from a lender.

Among substantially similar offers for an eligible single family property, the RTC will give preference to an offer from a family which is in a lower income group (e.g., very low-income over lower-income). Among substantially similar offers for a multifamily property, the RTC will give preference to the offer that would reserve the highest percentage of dwelling units for occupancy by very low-income and lower-income families and would retain such affordability for the longest term.

Purchasers of eligible multifamily properties may not charge rents to very low-income families in excess of 30 percent of the adjusted income of a family whose income equals 50 percent of area median income, with adjustment for family size. Rents charged to lower-income families may not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the area median income, with adjustment for family size.

These requirements will be effective for the remaining useful life of the property. "Useful life" of the property is defined as a period as long as the property is physically habitable.

No purchaser of an eligible multifamily property may terminate the occupancy of any person residing in the property on the date of purchase for purposes of meeting the lower-income occupancy requirements. The purchaser will be treated as being in compliance with the requirements if each newly vacant unit is reserved for lower-income occupancy until the lower-income occupancy requirements are met.

Lower-income occupancy requirements will be judicially enforceable against purchasers of eligible multifamily properties or their successors in interest. These requirements will be contained in a deed or other recorded instrument which will require the property owner to cooperate with an annual compliance review and pay a reasonable fee to cover the cost of the review.

4. Bulk Sales

The RTC will consider bulk sales offers for eligible properties following the completion of the ninety-day marketing period for such properties. The opportunity to make a bulk purchase offer will first be extended to qualifying purchasers (other than qualifying households) which express a serious interest in making a bulk purchase offer and which submit a list of two or more properties in any combination during the ninety-day marketing period. (Qualifying purchasers include local Urban Homesteading Agencies.)

After the end of the ninety-day period, the RTC will send each qualifying purchaser which expressed serious interest in a bulk purchase a Notice of Readiness for Sale. If the RTC receives an expression of serious interest in an eligible multifamily property from both an individual and a bulk purchaser, the RTC shall inform the bulk purchaser that the RTC will only consider bids made for the property on an individual basis during the forty-five-day bona fide offer period. A qualifying bulk purchaser may also submit a separate bona fide purchase offer for each such multifamily property. A qualifying bulk purchaser may submit a bona fide bulk purchase offer for any combination of the remaining properties within forty-five days. After expiration to the forty-five-day period, if no qualifying multifamily purchaser has made an offer to purchase the property, the RTC may sell the property, individually or in combination with other properties, to any purchaser.

Where an expression of serious interest in a bulk purchase for single-family property is submitted to the RTC during the ninety-day period by a qualifying purchaser, and any of the properties covered by the expression have been sold within the Ninety-Day Marketing Period, the RTC will notify the qualifying bulk purchaser of the properties which were sold. The RTC will permit the bulk purchaser to submit an offer within fourteen days for the remaining properties in accordance with a Notice of Readiness for Sale. When properties are sold in a bulk sale transaction initiated by an expression of serious interest during a ninety-day marketing period, eligible single family properties will be subject to lower-income occupancy rental and repurchase restrictions.

D. Request for Public Comment

The RTC is seeking comments on all aspects of the interim rule. Public comments should contribute to a more effective implementation of the program to expand affordable housing opportunities for low- and moderate-income families. The interim program is intended to involve the combined participation of non-profit organizations, governmental agencies, and the private sector. It is hoped that the publication of the interim rule will promote participation by a wide group of public and private sector organizations with comments on the RTC's goals and implementation procedures.

The RTC would encourage comments on any and all areas of the interim rule. Comments will be carefully reviewed for purposes of developing final regulations governing the program.

Administrative Procedure Act

The RTC is adopting this regulation as an interim final rule effective upon publication in the **Federal Register** without the usual notice-and-comment period or delayed effective date as provided for in the Administrative Procedure Act, 5 U.S.C. 553. These requirements may be waived for "good cause." The situation in housing affordability now faced by low income families underscores the significance of making "eligible" property immediately available for sale. Importantly, to avoid further deterioration of housing that can be made available to qualified purchasers and help satisfy the demand for affordable housing, the RTC and the RTC Oversight Board are of the opinion that a public service will be provided by marketing eligible properties during this 60 day comment period. Making single family property available for sale to families interested in becoming homeowners and multifamily projects available for development as affordable rental housing will significantly reduce holding cost and help stem the cost of resolving the thrifts from whose portfolios of troubled assets the properties originated. A delay in marketing eligible property during the public comment period would be a disservice to families currently expressing an interest in purchasing "eligible" properties. The decision to limit sales to 1,000 properties will help avoid keeping needed housing off the market, yet limit the number of properties sold during an interim period. These benefits will be passed on to the taxpayer. Therefore, the RTC finds that the benefits to the public in adopting the interim regulations outweigh any harm from the delay in seeking public comment.

The interim rule was developed in accordance with the eligible property disposition requirements of FIRREA and address implementation procedures outlined in the Strategic Plan issued by the Oversight Board December 31, 1989. All sales during this interim 60 day comment period will follow the interim rule.

Regulatory Flexibility Act

The RTC hereby certifies that the interim regulations, and any final regulations that may be adopted following comment on the interim regulations, are 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.).

The RTC expects, rather, that the interim rule will result in a benefit to small business entities whose services will be utilized in fulfilling the mandates of the legislation.

List of Subjects in 12 CFR Part 1609

Housing, Real estate, Reporting and recordkeeping requirements, Savings and loan associations.

For the reasons set out in the preamble, a new part 1609 is added to title 12, chapter XVI of the Code of Federal Regulations as follows:

PART 1609—AFFORDABLE HOUSING DISPOSITION PROGRAM

Sec.

1609.1 Authority, purpose, and scope.
1609.2 Definitions.
1609.3 Clearinghouses.
1609.4 Technical assistance advisors.
1609.5 Brokers.
1609.6 RTC staff.
1609.7 Ninety-day marketing period.
1609.8 Bulk sales.
1609.9 Reporting.

Authority: Pub. L. No. 101–73, sec. 501, 103 Stat. 183 (12 U.S.C. 1441a).

§ 1609.1 Authority, purpose, and scope.

This part is adopted pursuant to section 21A(c) and section 21A(b)(12) of the Federal Home Loan Bank Act, as added by section 501 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), Pub. L. No. 101–73, 103 Stat. 183, 363 (12 U.S.C. 1441a(c) and 12 U.S.C. 1441a(b)(12). Pursuant to those sections, the Resolution Trust Corporation (RTC) is promulgating rules and regulations dealing with the disposition of eligible residential properties to provide homeownership and rental housing opportunities for very low-income, lower-income, and moderate-income families.

§ 1609.2 Definitions.

(a) *Adjusted income.* The term "adjusted income" has the same meaning as such term has under section 3 of the United States Housing Act of 1937 codified at 42 U.S.C. 1437a(b)(5) and 24 CFR 813.102.

(b) *Adjustment for family size.* The term "adjustment for family size" means that factor based on family size applied by the RTC to median income to determine a family's adjusted income for purposes of this program. For RTC purposes, 50 percent and 65 percent of area median income numbers shall be adjusted for family size in the same manner as HUD adjusts 50 percent numbers; and 80 percent and 115 percent numbers, shall be adjusted in the same manner as HUD adjusts 80 percent numbers.

(c) *Annual income.* The term "annual income" used to calculate adjusted income has the same meaning as such term has under 24 CFR 813.106.

(d) *Bulk purchase offer.* The term "bulk purchase offer" means an offer to purchase in a single transaction two or more properties including any combination of single and multifamily properties.

(e) *Clearinghouse.* The term "clearinghouse" means:

(1) The State housing finance agency for the State in which an eligible residential property is located;

(2) The Office of Community Investment (or other comparable division) within the Federal Housing Finance Board; and

(3) Any national nonprofit organizations (including any nonprofit entity under title IX of the Housing and Urban Development Act of 1968) that the RTC determines has the capacity to act as a clearinghouse for information.

(f) *Eligible residential property.* The term "eligible residential property" includes eligible single family and eligible multifamily property.

(g) *Eligible multifamily property.* The term "eligible multifamily housing property" means a property consisting of more than four dwelling units:

(1) For which the RTC, as receiver or in its corporate capacity, acquires title; and

(2) That has an appraised value that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii), of the National Housing Act, codified at 12 U.S.C. 1715l(d)(3)(ii) for elevator-type structures (without regard to any increase of such amount for high-cost areas).

(h) *Eligible single family property.* The term "eligible single family property" means a one- to four-family residence (including a condominium or manufactured home):

(1) For which the RTC, as receiver or in its corporate capacity, acquires title; and

(2) That has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act, codified at 12 U.S.C. 1709(b)(2), (without regard to any increase of such amount for high-cost areas).

(i) *HUD.* The term "HUD" means the U.S. Department of Housing and Urban Development.

(j) *Local Urban Homesteading Agency (LUHA).* The term "Local Urban

Homesteading Agency" has the same meaning as the term has under section 810 of the Housing and Community Development Act of 1974, as amended, 12 U.S.C. 1706(e) and 24 CFR 590.5.

(k) *Lower-income occupancy requirements.* The term "lower-income occupancy requirements" means that not less than 35 percent of all dwelling units purchased by a qualifying multifamily purchaser in a single transaction shall be made available for occupancy by and maintained as affordable for lower-income families during the remaining useful life of the property in which the units are located, provided that not less than 20 percent of all units shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of such property.

(l) *Lower-income families.* The term "lower-income families" means families and individuals whose incomes do not exceed 80 percent of area median income, as defined under 42 U.S.C. 1437a(b)(2) and as determined by the Secretary of Housing and Urban Development, with adjustment for family size.

(m) *Median income for the area.* The term "median income for the area" has the same meaning as the term has under section 8 of the United States Housing Act of 1937, codified at 42 U.S.C. 1437a. For RTC purposes, 65 percent of area median income numbers shall be based upon HUD's income limits for very low-income families and 115 percent numbers, upon HUD income limits for lower-income families.

(n) *MOU.* The term "MOU" means memorandum of understanding.

(o) *Moderate-income families.* The term "moderate-income families" means families and individuals whose incomes exceed 80 percent but do not exceed 115 percent of area median income, as determined by the Secretary of Housing and Urban Development, with adjustment for family size.

(p) *National nonprofit organization.* The term "national nonprofit organization" means a nonprofit organization which has membership in more than one State.

(q) *Net realizable market value.* The term "net realizable market value" means a price below the market value that takes into account:

(1) Any reductions in holding costs resulting from the expedited sale of a property, including but not limited to foregone real estate taxes, insurance, maintenance costs, security costs, and loss of use of funds; and

(2) The avoidance, where applicable, of fees paid to real estate brokers, auctioneers, or other individuals or organizations involved in the sale of property owned by the RTC.

(r) *Ninety-day marketing period.* The term "ninety-day marketing period" means the three-month period, commencing on the date specified in the Notice of Ninety-Day Marketing Period issued by the RTC for each eligible residential property, during which the RTC will offer the property for sale exclusively to qualifying purchasers. During the ninety-day marketing period the RTC will offer to sell an eligible single family property to qualifying households, and public agencies or nonprofit organizations (including limited dividend cooperatives) that agree to make the property available for occupancy by and maintain it as affordable for lower-income families for the remaining useful life of such property, or make the property available for purchase by such families. This term also means the three-month period during which the RTC will accept an expression of serious interest in the property from a qualifying multifamily purchaser.

(s) *Non-profit organization.* The term "nonprofit organization" means a private organization (including a limited equity cooperative):

(1) No part of the net earnings of which inures to the benefit of any member, shareholder, founder, contributor, or individual; and

(2) That is approved by the RTC as to financial responsibility.

(t) *Principal residence.* The term "principal residence" means the dwelling where a homeowner lives the majority of the year.

(u) *Public agency.* The term "public agency" means any Federal, State, local, or other governmental entity; and includes any public housing agency.

(v) *Qualifying household.* The term "qualifying household" means a household:

(1) Who intends to occupy an eligible single family property as a principal residence; and

(2) Whose adjusted income does not exceed 115 percent of area median income, as determined by the Secretary of Housing and Urban Development, with adjustment for family size.

(w) *Qualifying multifamily purchaser.* The term "qualifying multifamily purchaser" means:

(1) A public agency;

(2) A nonprofit organization; or

(3) A for-profit entity which makes a commitment (for itself or any related entity) to satisfy the lower-income occupancy requirements for any eligible multifamily property for which it makes a purchase offer.

(x) *Qualifying purchaser.* The term "qualifying purchaser" includes qualifying single family and multifamily purchasers. For bulk sales transactions, the term "qualifying purchaser" excludes qualifying households.

(y) *Qualifying single family purchser.* The term "qualifying single family purchaser" means a "qualifying household," or it means a public agency or nonprofit organization that agrees to either:

(1) Make an eligible single family property available for occupancy as affordable housing for lower-income families during the remaining useful life of such property; or

(2) Make the property available for purchase by such families.

(z) *RTC.* The "RTC" means the Resolution Trust Corporation.

(aa) *Secretary.* The term "Secretary" means the Secretary of the U.S. Department of Housing and Urban Development.

(bb) *Substantially similar purchase offers.* The term "substantially similar purchase offers" means purchase offers whose terms result in comparable net proceeds to the RTC after deductions for sales expenses.

(cc) *Technical assistance advisor (TAA).* The term "technical assistance advisor" means a public agency or nonprofit organization that is designated by the RTC to provide assistance to potential purchasers of eligible residential property.

(dd) *Useful life.* The term "useful life" means the period of time when a property is physically habitable.

(ee) *Very low-income families.* The term "very low-income families" means families and individuals whose incomes do not exceed 50 percent of area median income, as determined by the Secretary, with adjustment for family size.

§ 1609.3 Clearinghouses.

(a) *Eligibility.* Clearinghouses shall include:

(1) The State housing finance agency for the State in which an eligible residential property is located;

(2) The Office of Community Investment (or other comparable division) within the Federal Housing Finance Board; and

(3) Any national nonprofit organization(s) that the RTC determines has the capacity to act as a clearinghouse for information.

(b) *Designation.*(1) *State housing finance agencies.* The RTC shall ask the Governor of each State to confirm the designation of the State housing finance agency to serve as a clearinghouse. At the Governor's discretion, the

clearinghouse function may be supported, in part, by a State agency, which is not a State housing finance agency, serving as a technical assistance advisor.

(2) *Office of Community Investment.* The RTC shall ask the Federal Housing Finance Board (FHFB) to designate the Office of Community Investment or other comparable division to serve as a clearinghouse. At the FHFB's discretion, the clearinghouse function may be delegated, in whole or part, to its regional offices.

(3) *National nonprofit organizations.* The RTC shall ask national nonprofit organizations to submit a written request for designation as a clearinghouse. The request should take the form of a written expression of interest in serving as a clearinghouse; evidence of IRS 501(c)(3) designation; a list of cities and states in which the organization is operating; a description of experience in promoting low and moderate income housing; the latest annual report; and a description of mechanism by which the organization will disseminate property information. The RTC may, in its discretion, accept or reject such a request in writing.

(c) *Functions.* (1) Clearinghouses shall perform the following functions which will be terms of MOU to be determined administratively by the RTC:

(i) Serve as a repository of property listings and Notices of Ninety-Day Marketing Period from the RTC for public inspection; and

(ii) Make information available upon request during the Ninety-Day Marketing Period to qualifying purchasers concerning eligible residential properties for which the clearinghouse has received a Notice of Ninety-Day Marketing Period.

(2) Clearinghouses are encouraged to perform the following functions:

(i) Disseminate RTC property inventories as well as listings of properties for which they have received Notices of Ninety-Day Marketing Period for sale on a regular basis to State and local government agencies, nonprofit housing organizations, for-profit entities, and organizations representing special population groups such as the homeless, and disabled, handicapped, and elderly persons.

(ii) Publicize the availability of eligible residential properties through various media.

(3) A clearinghouse shall not be subject to suit for its failure to comply with the requirements of this section.

§ 1609.4 Technical assistance advisors.

(a) *Eligibility.* Technical assistance advisors (TAA) may include clearinghouses, State and local public agencies, and nonprofit organizations.

(b) *Designations.* An eligible entity may submit a written request to the RTC regional office for designation as a TAA. The request should include a written expression of interest in serving as a TAA; evidence of IRS 501(c)(3) designation; a description of experience in promoting low and moderate income housing; and a description of the functions that the entity proposes to perform, identifying staffing capability to perform such functions. The RTC may, in its discretion, accept or reject such a request in writing.

(c) *Functions.* A TAA may assist a purchaser of an eligible single family property, eligible multifamily property, or both. It may perform one or more of the following functions:

(1) Qualifying single family property purchasers;

(2) Assisting qualifying households to identify suitable properties and secure financing;

(3) Assisting qualifying multifamily purchasers to identify suitable properties and secure financing;

(4) Assisting sponsors of housing for special populations, such as homeless, disabled, handicapped, and elderly persons in identifying suitable properties and secure financing;

(5) Providing specialized assistance to qualifying lower-income purchasers; or

(6) Assisting in other promotional services as needed by the RTC such as information dissemination, identification of qualifying purchasers, and other promotional activities as needed.

(d) *Compensation.* (1) The RTC shall enter into a MOU with each technical assistance advisor which will specify the services that the TAA will perform.

(2) The MOU may provide that the RTC shall compensate the TAA for its services on a basis agreed upon between the RTC and the TAA. Compensation arrangements may include special compensation for services which lead to purchase of eligible properties by lower-income families.

§ 1609.5 Brokers.

(a) *Designation.* The RTC shall involve brokers in the marketing of each eligible residential property that it offers for sale.

(b) *Functions.* The broker shall:

(1) Actively market the eligible residential properties on its listing, including multilisting services, as appropriate, and advertisements in local media (including media targeted to low- and moderate-income families and individuals).

(2) Show properties to all potential purchasers, including purchasers identified by technical assistance advisors;

(3) Present offers or contracts from qualifying purchasers to the RTC for acceptance, rejection, or counteroffer, along with certifications of eligibility from the qualifying purchasers; and

(4) Perform all other brokerage responsibilities incident to closing.

(c) *Compensation.* The RTC shall enter into a listing agreement with each broker which specifies the mutual responsibilities of the RTC and the broker and which provides for compensation as a percentage of the sales price of a property sold with the broker's services.

§ 1609.6 RTC staff.

(a) *Designation.* The RTC shall designate an affordable housing disposition specialist on the staff of each regional and consolidated office.

(b) *Functions.* The affordable housing disposition specialists shall perform the following functions:

(1) Coordinate sales of eligible residential properties in each office and serve as an advocate for the activity;

(2) Review and approve written requests from eligible entities to serve as technical assistance advisors;

(3) Negotiate an MOU with each TAA regarding the services to be performed and the method and amount of compensation;

(4) Within thirty days of a receivership action or acquisition of title to eligible residential properties, send a list of eligible residential properties to clearinghouses with a Notice of Ninety-Day Marketing Period and list properties with a broker;

(5) Monitor marketing efforts of clearinghouses, brokers, and technical assistance advisors giving particular attention to marketing of eligible single family properties for sale to lower-income families;

(6) Identify potential sources of financing for eligible residential properties through coordination with Federal, State, and local agencies and private lenders and investors;

(7) Coordinate with other Federal agencies that are selling residential properties in the same market areas;

(8) Collect and report data on marketing and sales of eligible residential properties as required by the RTC; and

(9) Carry out all other necessary activities for the program.

§ 1609.7 Ninety-day marketing period.

(a) *Eligible single family property*—(1) *Notice of ninety-day marketing period.* (i) When an eligible property is ready for sale, the RTC shall send a Notice of Ninety-Day Marketing Period to the clearinghouses serving the area in which the property is located. The Notice shall be transmitted by certified mail or any other means of communication with date and time confirmation.

(ii) The property listing accompanying the Notice shall contain basic information on the property including, at a minimum, information on property location, size, construction, condition, number of rooms, number of bedrooms, number of bathrooms, fair market value, contact person, and whether the property has natural, cultural, recreational, or scientific value of special significance.

(iii) The Notice shall specify a date that begins the start of the Ninety-Day Marketing Period.

(2) *Qualifying single family purchasers*—(i) *Households.* To qualify to purchase an eligible single family property, a household must certify in writing to the listing broker: that its adjusted income does not exceed 115 percent of area median income, with adjustment for family size; and that it intends to occupy the property as a principal residence. The form will follow the elements outlined in 24 CFR 813 to calculate a household's adjusted income based on income and assets with the appropriate allowances for dependent and medical expenses.

(ii) *Public agencies and nonprofit organizations.* To qualify to purchase one or more eligible single family properties, a public agency or nonprofit organization must certify that it will: make the property available for occupancy by and maintain it as affordable for lower-income families for the remaining useful life of such property; or make the property available for purchase by lower-income families. The required certification will be included as a part of an addendum to the sales contract governing the lower-income rental and repurchase restrictions for the purchase of single family property by public agencies and nonprofit organizations.

(3) *Offer and sale.* (i) The RTC shall establish a market value for each eligible residential property. The RTC shall also establish a net realizable market value for each eligible residential property in accordance with instructions provided to each RTC office.

(ii) The RTC shall consider offers during the Ninety-Day Marketing Period from qualifying purchasers on a first-come, first-served basis and shall sell an eligible property to any qualifying purchaser which makes an offer at or above the net realizable market value of the property.

(4) *Preference for purchaser from lower income group.* In choosing among substantially similar sales offers for an eligible single family property, the RTC will give preference to the bid from the family in the lower income group (e.g., very low-income over lower-income). On an offer for an individual property, preference will also be given to offers from families over nonprofit organizations or public agencies.

(5) *Deed restrictions.* Eligible single family properties purchased by a public agency or nonprofit organization for rental or repurchase to lower-income families must be so restricted by deed or other recorded instrument which is binding upon successors in interest, with the proviso that the property may subsequently be sold to a lower-income family without further restrictions.

(6) *Restrictions on the rental of single family properties.* (i) To comply with lower-income occupancy requirements, the rents charged to very low income families may not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of area median income, with adjustment for family size; and the rents charged to lower-income families may not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of area median income, with adjustment for family size.

(ii) Where a unit is occupied by a family receiving housing assistance payments, pursuant to section 8 of the U.S. States Housing Act of 1937, as amended, the family's contributions toward rent may not exceed 30 percent of the family's adjusted income, and the rent on the unit may exceed 30 percent of 50 percent of area median income.

(7) *Sales after ninety-day period.* If the RTC does not receive a purchase offer or an expression of serious interest in making a bulk purchase offer within the ninety-day period, the RTC may sell the property to any purchaser.

(8) *Property offered for re-sale.* If the RTC receives a purchase offer, but fails to close on an eligible single family property, the RTC will so notify the appropriate clearinghouses so that the property can be re-offered for sale for an appropriate interval: 90 days, if the offer was received in the first month; 60 days, if the offer was received in the second month; and 30 days, if the offer was received in the third month.

(b) *Eligible multifamily property*—(1) *Notice of Ninety-Day Marketing Period.* (i) The RTC shall send a Notice of Ninety-Day Marketing Period to clearinghouses when an eligible multifamily property is ready for sale to qualifying multifamily purchasers for a ninety-day marketing period. The Notice shall be transmitted by certified mail or any other means of communication with date and time confirmation.

(ii) The property listing accompanying the Notice shall include, at a minimum, basic information on property location, condition, and age, number of units, number of units by bedroom size, monthly rents by bedrooms size, percentage of units occupied, amenities, estimated fair market value of the property, contact person, and whether the property has natural, cultural, recreational, or scientific values of special significance.

(iii) The Notice shall specify a date that begins the start of the ninety-day marketing period.

(iv) During the ninety-day marketing period, the RTC shall offer an eligible multifamily property exclusively to qualifying purchasers.

(v) The RTC shall allow qualifying purchasers reasonable access to eligible properties for purposes of inspection.

(vi) If the RTC does not receive an expression of serious interest in making an offer on an individual property or in making a bulk purchase offer within the ninety-day marketing period, or if a bona fide offer is not received in the forty-five-day period following the issuance of a Notice of Readiness for Sale, the RTC may sell the property, individually or in combination with other properties, to any purchaser.

(2) Qualifying Multifamily Purchasers. Prior to receiving access to an eligible multifamily property, a public agency, nonprofit organization, or for-profit entity must make a written commitment (for itself or any related entity) to the listing broker that it is a qualifying purchaser which will satisfy the lower-income occupancy requirements for any eligible multifamily property for which it makes a purchase offer. The written commitment should acknowledge the terms and conditions governing the sale of eligible multifamily properties. This commitment will be included as a part of the bid package.

(3) *Lower-income occupancy requirements*—(i) *Rent limitations.* (A) To comply with lower-income occupancy requirements, the rents charged to very low income families may not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of area median income, with adjustment for family size; and the rents charged to lower-income families may not exceed 30 percent of

the adjusted income of a family whose income equals 65 percent of area median income, with adjustment for family size.

(B) Where a unit is occupied by a family receiving housing assistance payments, pursuant to section 8 of the U.S. States Housing Act of 1937, as amended, the family's contribution toward rent may not exceed 30 percent of the family's adjusted income, and the rent on the unit may exceed 30 percent of 50 percent of area median income.

(ii) *Continued occupancy of current residents.* No purchaser of an eligible multifamily property may terminate the occupancy of any person residing in the property on the date of purchase for purposes of meeting the lower-income occupancy requirement. The purchaser shall be in compliance with the requirement if each newly vacant dwelling unit is reserved for lower-income occupancy until the lower-income occupancy requirement is met.

(iii) *Financial infeasibility.* The Secretary or the State housing finance agency for the State in which the property is located may termporarily reduce the lower-income occupancy requirements applicable to a property sold under this program if the Secretary or the applicable State housing finance agency determines that an owner's compliance with such requirements is no longer financially feasible. The owner of the property shall make a good-faith effort to return lower-income occupancy to the level required by the property's deed, and the Secretary or the State housing finance agency, as appropriate, shall review the reduction annually to determine whether financial infeasibility continues to exist.

(4) *Expression of serious interest.* Before the end of the ninety-day marketing period, a qualifying multifamily purchaser may express serious interest in purchasing an eligible multifamily property from the RTC. The expression of serious interest shall be submitted to the listing broker and shall provide evidence that the purchaser intends to prepare a bona fide offer and has the ability to purchase the property. At a minimum, the documentation supporting the expression of serious interest, would include:

(i) Confirmation of public, nonprofit, or for-profit status;

(ii) A governing body resolution, where applicable, authorizing the purchase and affirming the commitment to meet the lower-income occupancy requirements;

(iii) A financial statement and evidence of a source of equity funds; and

(iv) Certification of no prior exclusion from federal procurement or non-procurement programs.

(5) *Notice of Readiness for Sale.* At the end of the ninety-day marketing period, the RTC will send a Notice of Readiness for Sale to qualifying purchasers who have submitted a written expression of serious interest in the eligible multifamily property during the ninety-day marketing period. This Notice will outline the minimum terms and conditions for sale of the property.

(6) *Bona fide offer.* Within forty-five days after receipt of a Notice of Readiness for Sale, a qualifying multifamily purchaser may submit a bona fide offer to purchase a property. The bona fide offer, as specified in the bid package, should include:

(i) A sales contract constituting a binding offer for a sum certain accompanied by a reasonable and customary earnest money deposit;

(ii) A conditional commitment for financing from a lender;

(iii) A written commitment to meet specific lower-income occupancy objectives and a process for complying with these objectives;

(iv) A written description of experience in housing ownership or management, preferably of low- and moderate-income housing; and

(v) Reaffirmation or revision of the information submitted with the expression of serious interest.

(7) *Preference for sales.* In choosing among substantially similar purchase offers for eligible multifamily property or combinations of eligible residential properties, the RTC will give preference to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low-income families and lower-income families and would retain such affordability for the longest term.

(8) *Deed restrictions.* (i) Low-income occupancy requirements shall be judicially enforceable against purchasers of eligible multifamily property or their successors in interest by affected very low- and lower-income families, State housing finance agencies, and any agency, corporation, or authority of the United States Government.

(ii) Lower-income occupancy requirements shall be contained in a deed or other recorded legal instrument which shall require the property owner to cooperate with an annual compliance review and to pay a reasonable fee to cover the cost of the review.

§ 1609.8 Bulk sales.

The RTC will accept bulk purchase offers from qualifying purchasers following the completion of a ninety-day marketing period.

(a) *Expression of serious interest.* During the ninety-day marketing period, the RTC will accept a written expression of serious interest in making a bulk purchase offer accompanied by a list of eligible residential properties from qualifying purchasers, including local Urban Homesteading Agencies. The expression of serious interest should be made in accordance with the requirements in § 1609.7(b)(4).

(b) *Notice of Readiness for Sale.* At the end of a ninety-day marketing period, the RTC shall send a Notice of Readiness for Sale to qualifying purchasers who have expressed an interest in a bulk sale. The RTC shall return the list of the properties submitted by the purchasers, crossing out the single family properties that were sold during the ninety-day marketing period and the multifamily properties for which a serious expression of interest was received from a purchaser interested in an individual sale. The RTC shall inform the multifamily bulk purchaser that the RTC will only consider bids made on such multifamily properties on an individual basis during the forty-five-day bona fide offer period.

(c) *Bona fide offer—single-family properties.* (1) Within fourteen days of the receipt of the Notice of Readiness for Sale a qualifying purchaser of single-family properties may submit a bona fide bulk purchase offer for the properties remaining on the list.

(2) After the expiration of the fourteen-day period, if no qualifying purchaser has made an offer to purchase the eligible single-family properties, the RTC may sell the properties individually or in combination with other properties to any purchaser.

(d) *Bona fide offer—multifamily properties.* (1) Within forty-five days of the receipt of the Notice of Readiness for Sale, a qualifying purchaser of multifamily properties may submit a bona fide bulk purchase offer for the properties remaining on the list in conformance with the requirements in § 1609.7(b)(6). A qualifying purchaser may also submit a separate bona fide offer in the same manner for each multifamily property for which the RTC received an expression of serious interest from a purchaser interested in an individual sale.

(2) After expiration of the forty-five-day period, if no qualifying purchaser has made an offer to purchase the eligible multifamily properties, the RTC may sell the properties, individually or

in combination with other properties, to any purchaser.

(e) *Applicability of income restrictions.* When properties are sold in a bulk sale transaction initiated by an expression of serious interest during a ninety-day marketing period, eligible single family properties will be subject to lower-income family rental and repurchase deed restrictions, and eligible multifamily properties, to lower-income occupancy deed restrictions.

(f) *Sale of properties to other purchasers.* If no expression of serious interest in making an individual or bulk purchase offer is received during the ninety-day marketing period, or if a bona fide bulk purchase offer is not received within forty-five days of receipt of a Notice of Readiness for Sale from qualifying purchasers who submitted a written expression of serious interest during the ninety-day marketing period, or a bona fide bulk purchase offer is not received within fourteen days of receipt of a Notice of Readiness for Sale from qualifying purchasers who submitted a written expression of serious interest in single-family properties during the ninety-day marketing period, the RTC will accept individual or bulk purchase offers from any purchasers and lower-income occupancy restrictions will not apply.

§ 1609.9 Reporting.

(a) RTC regional offices will track all sales of eligible residential property and maintain the following information for analysis and reports to the Oversight Board:

(1) Property description;

(2) Property type (single family, multifamily, condominium, cooperative, rental, etc.);

(3) Last appraised value and date;

(4) Marketing period;

(5) Number of bids received;

(6) Sale price/terms;

(7) Purchased for low or moderate income use;

(8) Name and profile of buyer;

(9) Income and family size;

(10) Source of financing; and

(11) Referral source for buyer;

(b) A detailed report of each sale and a summary of sales per region will be mailed monthly to RTC Headquarters in Washington. Similar information will be collected and submitted to RTC headquarters on the sale of eligible residential properties in conservatorship.

By order of the Board of Directors, this 20th day of March 1990.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 90-8222 Filed 4-13-90; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 799

[Docket No. 900257-0057]

West-East Decontrol of Certain High Purity Polycrystalline Silicon

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule removes the validated export licensing requirements for exports to noncontrolled countries of certain polycrystalline silicon controlled under Export Control Commodity Number (ECCN) 1757A in the Commodity Control List (CCL), Supplement No. 1 to § 799.1 of the Export Administration Regulations (EAR). This action is in accordance with a positive determination of foreign availability under section 5(f) of the Export Administration Act of 1979, as amended (EAA). Pursuant to section 5(f)(8) of the EAA, this rule also removes national security controls from certain polycrystalline silicon not covered by the foreign availability determination. The net effect of this rule will be to reduce the number of license applications that will have to be filed for this type of material.

DATES: This rule is effective April 16, 1990. Comments must be received by May 16, 1990.

ADDRESSES: Written comments (six copies) should be sent to: Willard Fisher, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, room 1622, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Dr. Jo-Anne A. Jackson, Office of Foreign Availability, Bureau of Export Administration, U.S. Department of Commerce, Washington, DC 20230, Telephone: (202) 377-5953.

SUPPLEMENTARY INFORMATION:

Background

This interim rule removes national security based export controls from certain polycrystalline silicon found to be available from foreign sources. The rule also removes such controls from certain additional polycrystalline silicon pursuant to section 5(f)(8) of the Export Administration Act of 1979, as amended (EAA).

On February 14, 1990 (55 FR 5249), the Commerce Department published a **Federal Register** notice stating that the Deputy Assistant Secretary for Export Administration had made a positive determination of foreign availability under section 5(f) of the EAA for certain polycrystalline silicon controlled under paragraph (f) of ECCN 1757A of the CCL. This interim rule implements this positive foreign availability determination.

In addition, pursuant to section 5(f)(8) of the EAA, this rule removes national security controls from certain polycrystalline silicon not covered by the foreign availability determination. Under section 5(f)(8), whenever Commerce removes national security controls from an item for foreign availability reasons, Commerce may not maintain such controls on any similar item whose function, technological approach, performance thresholds, and other attributes that form the basis for such controls do not exceed the technical parameters of the item determined to be available. The additional polycrystalline silicon covered by this decontrol meets the requirements of this section.

As a result of this regulatory action, exports of the following types of high purity polycrystalline silicon, as described in the Validated License Required paragraph for ECCN 1757A, no longer require a validated license, for national security reasons, to any destination in Country Group T or V (except the People's Republic of China and Afghanistan):

(1) Non-rod forms of polycrystalline silicon at any purity; and

(2) Polycrystalline silicon rods having either of the following equivalent characteristics:

(a) Boron (P-type) impurity concentration—Greater than 0.052 ppba (parts per billion atomic); or

(b) P-type resistivity value—Less than 5000 ohm-cm.

A validated license continues to be required for national security reasons for exports to all destinations in Country Groups T and V of polycrystalline silicon rods exceeeding the technical parameters described above. A validated license requirement also continues to apply to exports of all polycrystalline silicon, controlled under paragraph (f) of ECCN 1757A, to destinations in Country Groups Q, S, W, Y, and Z, the People's Republic of China, and Afghanistan.

The Bureau of Export Administration is submitting to COCOM a proposal for a West-East decontrol of high purity polycrystalline silicon affected by this rule.

Rulemaking Requirements

1. This rule complies with Executive Order 12291 and Executive Order 12661.

2. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under Control Number 0694–0005.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. Section 13(a) of the Export Administration Act of 1979, as amended (EAA) (50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Section 13(b) of the EAA does not require that this rule be published in proposed form because this rule does not impose a new control. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close May 16, 1990. The Department will consider all comments receives before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, room 4518, Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 377–2593.

List of Subjects in 15 CFR Part 799

Exports, Reporting and recordkeeping requirements.

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

PART 799—[AMENDED]

1. The authority citation for 15 CFR part 799 continues to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97–145 of December 29, 1981, by Pub. L. 99–64 of July 12, 1985, and by Pub. L. 100–418 of August 23, 1988; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95–223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986; Pub. L. 99–440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

PART 799—[AMENDED]

2. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 1757A is amended by revising the Validated License Required paragraph to read as follows:

§ 1757A Compounds and materials as described in this entry.

Controls for ECCN 1757A

* * * * *

Validated License Required: Country Groups QSTVWYZ, except as provided below for exports of certain polycrystalline silicon to destinations in Country Groups T and V.

Polycrystalline silicon. A validated license is not required to destinations in Country Groups T and V (except the People's Republic of China and Afghanistan) for the following types of high purity polycrystalline silicon controlled under paragraph (f) of this entry 1757A:

(1) Non-rod forms of polycrystalline silicon at any purity; and

(2) Polycrystalline silicon rods that have either of the following equivalent characteristics:

(i) Boron (P-type) impurity concentration—Greater than 0.052 ppba (parts per billion atomic); or

(ii) P-type resistivity value—Less than 5000 ohm-cm.

Note: Purity shall be verified according to ASTM specification F574–83 or equivalent; and resistivity measurement shall be verified according to ASTM specification F43–83 or equivalent. (See also ASTM Standard F723–82 for conversion between resistivity and dopant density.)

* * * * *

Dated: April 10, 1990.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 90–8699 Filed 4–13–90; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 452

[Docket No. 89N-0379]

Erythromycin Ethylsuccinate Tablets; Revision of Potency Testing Method

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations by revising the accepted standards for erythromycin ethylsuccinate tablets to provide for a new sample preparation method to be used in potency testing. This action will provide better quality control of this product.

DATES: Effective May 16, 1990; written comments, notice of participation, and request for hearing by May 16, 1990; data, information, and analyses to justify a hearing by June 15, 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Peter A. Dionne, Center for Drug Evaluation and Research (HFD–520), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 26, 1989 (54 FR 43593), FDA proposed to amend the antibiotic drug regulations by revising the accepted standards for erythromycin ethylsuccinate tablets to provide for a new sample preparation method to be used in potency testing.

As discussed in the proposal, the current microbiological agar diffusion assay used for the potency testing of erythromycin ethylsuccinate tablets requires a sequential blending of the sample in 200 milliliters of methyl alcohol and 300 milliliters of 0.1M potassium phosphate buffer, pH 8.0. The agency has determined that the use of this current sample preparation method for one manufacturer's tablets results in the formation of an unwanted precipitate in the test sample when the phosphate buffer is added to the initial methyl alcohol blend of the sample. This precipitate in the sample results in an incorrect interpretation of the potency test results. The formation of this precipitate can be eliminated by revising the sample preparation method to limit the concentration of test sample in the methyl alcohol blend to not more than 5 milligrams per milliliter and by deleting the procedure for further blending of the sample with phosphate buffer. FDA has determined that this alternative sample preparation method provides more reliable and reproducible potency test results and can appropriately replace the current sample preparation method for potency testing of erythromycin ethylsuccinate tablets.

Interested persons were given until December 26, 1989, to submit written comments on this proposal and until November 27, 1989, to submit requests for an informal conference. No comments or requests for an informal conference were received in response to the proposal.

Therefore, the agency has concluded that the antibiotic drug regulations should be amended by revising the accepted standards for erythromycin ethylsuccinate tablets in 21 CFR 452.125d(b)(1) to provide for a new sample preparation method to be used in potency testing.

Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Economic Impact

The agency has considered the economic impact of this final rule and has determined that it does not require a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 93–354). Specifically, the final rule imposes a minor amendment to an existing technical provision without imposing a more stringent requirement. Accordingly, the agency certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities.

Submitting Comments and Filing Objections

Any person who will be adversely affected by this final rule may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before May 16, 1990, a written notice of participation and request for hearing, and (2) on or before June 15, 1990, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.300. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for a hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this document and filed with the Dockets Management Branch (address above).

The procedures and requirements governing this order, a notice of participation and request for a hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 314.300.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. amd 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 452

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 452 is amended as follows:

PART 452—MACROLIDE ANTIBIOTIC DRUGS

1. The authority citation for 21 CFR part 452 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

2. Section 452.125d is amended by revising paragraph (b)(1) to read as follows:

§ 452.125d Erythromycin ethylsuccinate tablets.

* * * * *

(b) * * * (1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place a representative number of tablets into a high-speed glass blender jar containing sufficient methyl alcohol to yield a concentration of 5 milligrams of erythromycin activity or less per milliliter when blended. Blend for 3 to 5 minutes. Further dilute an aliquot of this solution with 0.1M potassium phosphate buffer, pH 8.0 (solution 3), to the reference concentration of 1.0 microgram of erythromycin base per milliliter (estimated).

* * * * *

Dated: April 6, 1990.

Daniel L. Michels,

Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 90-8690 Filed 4-13-90; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[KY-052; FRL-3756-5]

Designation of Areas for Air Quality Planning Purposes; Kentucky: Redesignation of a Kentucky Carbon Monoxide Nonattainment Area

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is today granting the request by the Commonwealth of Kentucky that Jefferson County be redesignated from nonattainment to attainment for carbon monoxide (CO). The redesignation is based on eight quarters of ambient monitoring data that show no violations of the National Ambient Air Quality Standards for CO and on implementation of the EPA-approved CO control strategies.

DATES: This action will become final on May 16, 1990.

ADDRESSES: Copies of the materials submitted by Kentucky may be examined during normal working hours at the following locations:

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365.

Commonwealth of Kentucky, Natural Resources and Environmental Protection Cabinet, Department for Environmental Protection, 316 St. Clair Mall, Frankfort, Kentucky 40601.

Jefferson County Air Pollution Control District, 914 East Broadway, Louisville, Kentucky 40204.

FOR FURTHER INFORMATION CONTACT: Vickie Boothe, Air Programs Branch, EPA Region IV, at the above address and phone number (404) 347-2864 or FTS 257-2864.

SUPPLEMENTARY INFORMATION: In the March 3, 1978, **Federal Register** (43 FR 8962) EPA designated Jefferson County, Kentucky as nonattainment for CO. The Commonwealth was therefore required to revise their State Implementation Plan (SIP) for CO. Through implementation of the control strategy contained in its 1982 part D SIP revisions, Kentucky demonstrated attainment of the CO standard by December 31, 1987. EPA fully approved these revisions on October 9, 1984, **Federal Register** (49 FR 39547).

Kentucky has requested that EPA change the attainment status of Jefferson County from nonattainment to attainment for CO. In order to redesignate a CO nonattainment area, EPA policy requires the most recent eight consecutive quarters of quality assured, representative ambient air quality data plus evidence of an implemented control strategy that EPA has fully approved. In December 1985, the CO monitoring sites located at 2nd Street and 5th Street were shut down due to renovation activities in the downtown area of Louisville. During 1985, there was one exceedance of the eight-hour standard at the 2nd Street location. One of these monitors was relocated on W Muhammad Ali Boulevard and the other on Goldsmith Lane. Both sites were selected by EPA personnel. Kentucky has submitted ambient air quality data collected from the Muhammad Ali Boulevard and Goldsmith Lane sites as well as the site located at Fire Station #20. There were no exceedances of either the one-hour or eight-hour standards from March 1987 through April 1989 at either of the relocated sites. From 1985 through the first quarter of 1989, there was one exceedance of the eight-hour standard at the Fire Station #20 location. There were no violations of either the one-hour or the eight-hour standard during the most recent eight quarters.[1]

Kentucky has also submitted evidence of implementation of the control strategies required by the SIP for Jefferson County. The required vehicle inspection and maintenance (I/M) program has been adopted and implemented in Jefferson County. The submittal included a copy of Regulation 8, Vehicle Exhaust Testing Requirements; the annual operating report for calendar years 1985, 1986 and 1987; a copy of a report of an EPA audit of Jefferson County's Vehicle Exhaust Testing (VET) Program showing that the program exceeds the RACT requirements; and an approved contract for continuation of the VET through June 30, 1991.

Kentucky also submitted information regarding the status of the 34 Transportation Control Measures contained in the SIP. Twenty-six of the TCMs have been completed, three are under construction at this time and nearing completion, and two have been fully funded with start of construction being imminent. On January 3, 1989, Evelyn L. Waldrop, Director, Physical and Environmental Services Cabinet, sent a letter to EPA Region IV stating that the funds for completion of these two TCMs would not be diverted to other projects. The remaining three TCMs have been cancelled due to the following reasons:

1. Hill Street—This TCM was included in the SIP erroneously. The project is related to safety rather than air quality. Traffic counts and a Volume 9 screening model and impact were submitted to support the calculation (see Technical Support Document (TSD)).

2. KY 1631—This TCM has been cancelled due to the planned expansion of Standiford Field Airport. The intersection will be removed entirely as a result of the expansion.

3. Greenwood Road—This TCM was included in the SIP because an analysis indicated a hot spot would exist due to a proposal to locate a large Sears shopping center at the corner of Greenwood Road. However, zoning was not granted and the shopping center was never constructed. Traffic counts and a Volume 9 screening model input and output were submitted to support this cancellation (see TSD).

It is Region IV's opinion that cancellation of these TCMs is justifiable and will not adversely affect the continuing attainment of the CO standards.

Kentucky further submitted information regarding the implementation of the ridesharing commitments. Therefore, the requirements of the approved EPA control strategy have been fully implemented in Jefferson County.

For a more detailed discussion, please refer to the Technical Support Document which is available for inspection at the EPA Region IV office.

On August 2, 1989, EPA proposed to approve the request by the Commonwealth of Kentucky that Jefferson County be redesignated from nonattainment to attainment for carbon monoxide (CO). [54 FR 31860]

Public Comments: On September 1, 1989, Region IV was asked by the Kentucky Resource Council to extend the period for comment on the proposal to redesignate Jefferson County to attainment for CO.

The Region approved an extension until September 5, 1989. Comments were received from the Kentucky Resource Council requesting that Region IV withdraw the proposed rule. The request was based on the results of a study performed by Presnell Associates which indicated the potential, based on modeling, for exceedance of the CO standard in an area of significant commercial and residential development

[1] A violation of the 8-hour standard for CO occurs if there are 2 or more exceedances in either of the last 2 years (most recent 8 quarters).

known as the Hurstbourne Lane corridor.

Response to Comments: Kentucky and Jefferson County have made certain commitments to address the comments received from the Kentucky Resource Council. They have agreed to establish a minimum of one CO monitoring station in the Hurstbourne Lane Area as close as possible to the projected high CO impact area defined by the Presnell Study. The monitoring site(s) will meet the EPA monitoring site location and operating procedure. The monitoring at this site(s) will continue until adequate CO data has been obtained. Adequate is defined as two consecutive years of data with a minimum of 75% data recovery during the CO season. Thereafter, the monitor(s) shall continue to operate unitl such time that EPA, Kentucky, and Jefferson County agree to discontinue the monitoring.

In the event that no violation of the CO standards is measured during this data acquisition period, no other measures need be taken. In the event, however, a violation is properly monitored in the Hurstbourne Lane Area during this data acquisition period, Jefferson County and Kentucky agree to place the Hurstbourne Lane Study Area in a CO "Hot Spot" status and develop and implement appropriate corrective action as expeditiously as practicable. Additionally, Jefferson County and Kentucky agree to conduct detailed CO modeling, using EPA approved models, for three other high growth areas identified in a review of the more than 300 projects modeled as a result of the Planning Commission referral process. These three areas are the Breckenridge Lane/Dupont Square Area, the Shelbyville Road/Oxmoor Area, and the Preston Street/Outer Loop Area. If the modeling analysis for these areas indicates CO violations, Jefferson County and Kentucky agree to develop and implement appropriate corrective action as expeditiously as practical. In the event that EPA makes the determination that the problem is not a "Hot Spot" problem, but an area wide problem, the County will develop a new SIP in accordance with the published EPA guidance available at that time.

The commitments made by Kentucky and Jefferson County adequately address the comments received from the Kentucky Resource Council.

Final Action: EPA is today approving the redesignation of the Jefferson County CO nonattainment area to attainment on the basis of eight quarters of air quality data and on a fully implemented control strategy approved by EPA.

Today's action is contingent upon the State and/or county maintaining an adequate CO ambient air quality monitoring network and continuing full implementation of the EPA-approved CO control strategies. Under the reasoning of *Bethlehem Steel Corporation* v. *EPA*, 723 F. 2d 1304 (7th Cir. 1983), EPA believes that it may not have the authority to redesignate an area to nonattainment without first receiving a request to do so by the affected state. Therefore, EPA anticipates that should violations of the CO NAAQS occur in the future, the State will request that EPA redesignate the area nonattainment.

Under 5 U.S.C. 605(b), I certify that this request will not have significant impact on a substantial number of small entities. (See 46 FR 8709.)

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 15, 1990. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).) The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

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

List of Subjects in 40 CFR Part 81

Air pollution control, National Parks, Wilderness areas.

Dated: April 5, 1990.

William R. Reilly,

Administrator.

Part 81 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 81—[AMENDED]

Subpart C—Section 107 Attainment Status Designations

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

Authority: 42 U.S.C. 7401–7642.

§ 81.318 [Amended]

2. In § 81.318 the attainment status table titled "Kentucky—CO" is amended by changing the entry for Jefferson County from "does not meet primary standards" to "cannot be classified or better than national standards"

[FR Doc. 90–8777 Filed 4–13–90; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF JUSTICE

48 CFR Part 2804

[Justice Acquisition Circular 90–1]

Amendments to the Justice Acquisition Regulations (JAR) Regarding Contract Reporting Requirements

AGENCY: Office of the Procurement Executive, Justice Management Division, Justice.

ACTION: Final rule.

SUMMARY: Justice Acquisition Circular (JAC) 90–1 amends the JAR, 48 CFR, chapter 28 by adding to part 2804 regulations that implement the reporting requirements of section 6050M of the Tax Reform Act of 1986 (Pub. L. 99–514), and the special reporting exceptions to the reporting requirements of section 6050M which were added by the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100–647). Section 6050M requires that Federal executive agencies provide information returns to the Internal Revenue Service on certain contractual actions. The special reporting exceptions to section 6050M were added for contracts relating to confidential law enforcement or foreign counterintelligence activities. The use of these reporting exceptions is conditioned in the law on the issuance by an agency of implementing regulations. JAC 90–1 provides these regulations.

EFFECTIVE DATE: April 16, 1990.

FOR FURTHER INFORMATION CONTACT: W.L. Vann, Procurement Executive, Justice Management Division, Telephone (202) 272–8354.

SUPPLEMENTARY INFORMATION: The determination is hereby made that this amendment must be issued as a final rule. Any delay in issuing this amedment could impair the Department's ability to comply with the reporting requirements of Section 6050M and also maintain the confidentiality of its undercover law enforcement or foreign counterintelligence activities. This amendment was not published for public comment because it does not have an effect beyond the internal operating procedures of the agency.

The Director, Office of Management and Budget, by memorandum dated December 14, 1984, exempted agency

procurement regulations from review under Executive Order 12291 except for selected areas. The exception applies to this rule. The Department of Justice certifies 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. 601–612).

List of Subjects in 48 CFR Part 2804

Government procurement, reporting requirements.

Harry H. Flickinger,

Assistant Attorney General for Administration.

For the reasons set out in the preamble, title 48, chapter 28 of the Code of Federal Regulations is amended as follows. The authority citation for part 2804 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 2804—ADMINISTRATIVE MATTERS

1. A new subpart 2804.9 Information Reporting to the Internal Revenue Service is added as follows:

Subpart 2804.9—Information Reporting to the Internal Revenue Service

Sec.
2804.900 Scope of subpart.
2804.901 Definitions.
2804.903 Procedures.
2804.903–70 Certification.
2804.970 Special reporting exceptions.

Subpart 2804.9—Information Reporting to the Internal Revenue Service

2804.900 Scope of subpart.

This subpart provides policies and procedures applicable to contract information reporting to the Internal Revenue Service (IRS).

2804.901 Definitions.

Classified contract, as used in this subpart, means a contract such that the fact of the existence of such contract or the subject matter of such contract has been designated and clearly marked or clearly represented, pursuant to the provisions of Federal law or an Executive order, as requiring a specific degree of protection against unauthorized disclosure for reasons of national security.

Confidential contract, as used in this subpart, means a contract, the reporting of which to the IRS as required under 26 U.S.C. 6050M, would interfere with the effective conduct of a confidential law enforcement activity, such as contracts for sites for undercover operations or contracts with informants, or foreign counterintelligence activity.

2804.903 Procedures.

Bureau procurement offices shall submit their quarterly FPDS reports together with the certification required by section 2804.903–70 to the Procurement Executive in accordance with section 2804.601.

The Procurement Executive will certify the consolidated FPDS data for the Department, transmit the data to the Federal Procurement Data Center (FPDC) and authorize the FPDC to make returns to the IRS on behalf of the agency.

2804.903–70 Certification.

(a) 26 U.S.C. 6050M, as implemented in 26 CFR requires the head of every Federal executive agency to file an information return with the IRS for certain contract actions in excess of $25,000 and to certify under penalties of perjury that the information provided is, to the best of his or her belief, true, correct and complete.

(b) The head of the contracting activity or his or her delegate shall certify to the Procurement Executive, in the format specified below, under penalty of perjury, that such official has examined the information submitted by that bureau as its FPDS data, and that the data has been prepared pursuant to the requirements of Section 6050M and that, to the best of such official's knowledge and belief it is compiled from bureau records business for the purpose of making a true, correct and complete return as required by 26 U.S.C. 6050M.

(c) The following certification will be signed and dated by the head of the contracting activity, or his or her delegate, and submitted with each quarterly FPDS report from that bureau.

Certification

I, _____(Name), _____(Title) under the penalties of perjury have examined the information to be submitted by _____(Bureau) to the FPDC, for making information returns on behalf of the Department of Justice to the Internal Revenue Service, and ceritify that this information has been prepared pursuant to the requirements of section 6050M and that it is to the best of my knowledge and belief, a compilation of bureau records maintained in the normal course of business for the purpose of providing true, correct and complete returns as required by 26 U.S.C. section 6050M.

Signature

Date

2804.970 Special reporting exceptions.

(a) The Technical and Miscellaneous Revenue Act of 1988 (P.L. 100–647) amended 26 U.S.C. 6050M to allow exceptions to the reporting requirements for certain classified or confidential contracts.

(b) The head of the agency has determined that the filing of information returns, as required by 26 U.S.C. 6050M, on confidential contracts, which involve law enforcement or foreign counterintelligence activities, would interfere with the effective conduct of those confidential law enforcement or foreign counterintelligence activities, and that the special reporting exceptions added to section 6050M by The Technical and Miscellaneous Revenue Act of 1988 apply to these types of contracts.

[FR Doc. 90–8773 Filed 4–13–90; 8:45 am]
BILLING CODE 4410–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 91046–0006]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure; request for comments.

SUMMARY: NOAA announces the closure of the Bering Sea and Aleutian Islands (BSAI) subarea to further directed fishing for Greenland turbot under provisions of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). This action is necessary to prevent the total allowable catch (TAC) for Greenland turbot in the BSAI subareas from being exceeded before the end of the fishing year. The intent of this action is to assure optimum use of groundfish while conserving Greenland turbot stocks.

DATES: Effective from noon, Alaska Daylight Time (ADT), April 12, 1990, through December 31, 1990. Comments will be accepted through April 27, 1990.

ADDRESSES: Comments should be mailed to Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802, or be delivered to Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Janet E. Smoker, Fishery Management Biologist, NMFS, 907–586–7229.

SUPPLEMENTARY INFORMATION: The FMP governs the groundfish fishery in the exclusive economic zone under the Magnuson Fishery Conservation and Management Act. The FMP was developed by the North Pacific Fishery Management Council and implemented by rules appearing at 50 CFR 611.93 and part 675. Initial specifications for 1990 TACs were published on January 16, 1990 (55 FR 1434).

The current TAC for Greenland turbot is set at 5,950 metric tons (mt). The entire TAC is apportioned to domestic annual processing (DAP). In the BSAI subareas, the estimated DAP catch of Greenland turbot through March 24 is 2,746 mt. The current estimated catch is 4,300 mt, leaving a remainder of 1,650 mt.

Notice of Closure to Directed Fishing

The Regional Director has determined that fisheries for Pacific ocean perch, rockfish, and sablefish will require up to 1,300 mt of Greenland turbot for bycatch. Under § 675.20(a)(8), when the Regional Director finds that the remaining amount of TAC of any target species is necessary for bycatch in fisheries for other groundfish species during the remaining fishing year, the Secretary will publish a notice prohibiting directed fishing for that species for the remainder of the fishing year. The Regional Director has determined that the amount of Greenland turbot that will remain on April 12, 1990, about 1,300 mt, will be necessary for bycatch in other fisheries. Therefore, further directed fishing for Greenland turbot must cease at noon, ADT, April 12, 1990.

After that time, in accordance with § 675.20(h)(2)(ii), during each trip a vessel using trawl gear may retain Greenland turbot in an amount less than 10 percent of the total amount of sablefish and all rockfish species plus 1 percent of the total amount of other fish species (based on round weight equivalents). Vessels using hook-and-line gear may retain Greenland turbot in an amount less than 20 percent of the total amount of sablefish plus 1 percent of the total amount of other fish species (based on round weight equivalents) in accordance with § 675.20(h)(3)(iii).

Classification

The Assistant Administrator for Fisheries, NOAA, finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment, and that immediate effectiveness of this notice is necessary to prevent the TAC for Greenland turbot from being exceeded by the end of 1990. However, interested persons are invited to submit comments in writing to the address above for 15 days after the effective date of this notice.

This action is taken under the authority of § 675.20(a)(8) and complies with Executive Order 12291.

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Recordkeeping and reporting requirements.

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

Dated: April 12, 1990.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90–8879 Filed 4–12–90; 12:57 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 55, No. 73
Monday, April 16, 1990

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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 998

[Docket No. FV-90-149]

Marketing Agreement 146 Regulating the Quality of Domestically Produced Peanuts; Proposed Expenses, Assessment Rate, and Indemnification Reserve for the Peanut Administrative Committee for the 1990-91 Crop Year

AGENCY: Agriculture Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures for administration and indemnification, establish an assessment rate, and authorize continuation of an indemnification reserve under Marketing Agreement 146 for the 1990–91 crop year. The proposal is needed for the Peanut Administrative Committee (committee) to incur operating expenses, collect funds to pay those expenses and settle indemnification claims during the 1990–91 crop year. Funds to administer this program are derived from assessments on handlers.

DATES: Comments must be received by May 16, 1990.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Patrick Packnett, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2530–S, Washington, DC 20090–6456, telephone 202–475–3862.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Agreement 146 (7 CFR part 998) regulating the quality of domestically produced peanuts. This agreement is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

There are approximately 68 handlers of peanuts covered under the peanut marketing agreement, and approximately 46,950 producers in the 16 states covered under the agreement. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. Some of the handlers covered under the agreement are small entities, and a majority of producers may be classified as small entities.

Under the marketing agreement, the assessment rate for a particular crop year applies to all assessable tonnage handled from the beginning of such year (i.e., July 1). An annual budget of expenses is prepared by the committee and submitted to the Department of Agriculture for approval. The members of the committee are handlers and producers of peanuts. They are familiar with the committee's needs and with the costs for goods, services and personnel for program operations and are thus in a position to formulate appropriate budgets. The budgets are formulated and discussed at industry-wide public meetings. Thus, all directly affected persons have an opportunity to participate and provide input. The handlers of peanuts who will be directly affected have signed the marketing agreement authorizing the expenses that may be incurred and the imposition of assessments.

The assessment rate recommended by the committee was derived by dividing anticipated expenses by expected receipts and acquisitions of farmers' stock peanuts. It automatically applies to all assessable peanuts received by handlers from July 1, 1990. Because that rate is applied to actual receipts and acquisitions, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses. The recommended budget, rate of assessment, and the continuation of an indemnification reserve were acted upon by the committee on March 21–22, 1990, and expenses are incurred on a continuous basis. Therefore, this budget and assessment rate approval must be expedited so that the committee will have funds to pay its expenses starting on July 1, 1990.

The committee unanimously recommended a 1990–91 budget of administrative expenses of $910,000, $60,000 more that budgeted last year. Budget items for 1990–91 which have increased compared to those budgeted for 1989–90 (in parentheses) are: Executive salaries, $125,000 ($119,521); field representative salaries, $237,000 ($225,500); payroll taxes, $43,000 ($39,000); employee benefits, $125,000 ($89,000); field travel, $92,000 ($90,000); office rent and parking $48,000 ($45,700); and furniture and equipment $7,500 ($3,000). All other items are budgeted at about last year's amounts except for clerical salaries which have been decreased from $136,000 to $130,000. The administrative budget includes $6,000 for contingencies.

The committee recommended an assessment rate of $0.52 per ton of assessable peanuts to cover administrative expenses. Last year, the assessment rate was $0.50 per ton. The 1990 assessable tonnage was estimated at 1.75 million tons, the same as last year. Application of the recommended assessment rate to this estimate would result in $910,000 for administrative expenses.

An estimated $7.1 million would be carried forward into the 1990–91 crop year as a reserve under the agreement to meet indemnification expenses. This reserve is deemed adequate to cover

indemnification expenses for the 1990–91 crop year. Therefore, the committee did not recommend an assessment to make monetary additions to the indemnification reserve. Funding for the indemnification account will also be generated from interest on time deposits.

While this proposed action would impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers signatory to the agreement. Some of the additional costs may be passed on to producers. However, these costs would be significantly offset by the benefits derived from the operation of the marketing agreement. Therefore, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 998

Marketing agreements, Peanuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 998 be amended as follows:

PART 998—MARKETING AGREEMENT REGULATING THE QUALITY OF DOMESTICALLY PRODUCED PEANUTS

1. The authority citation for 7 CFR part 998 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. New § 998.403 is added to read as follows:

§ 998.403 Expenses, assessment rate, and indemnification reserve.

(a) *Administrative expenses.* The budget of expenses for the Peanut Administrative Committee for the crop year beginning July 1, 1990, shall be in the amount of $910,000, such amount being reasonable and likely to be incurred for the maintenance and functioning of the committee and for such purposes as the Secretary may, pursuant to the provisions of the marketing agreement, determine to be appropriate.

(b) *Indemnification expenses.* Expenses of the committee for indemnification payments, pursuant to the terms and conditions of indemnification applicable to the 1990 crop, effective July 1, 1990, are not expected to exceed the balance of the indemnification reserve (approximately $7.1 million), such amount being reasonable and likely to be incurred.

(c) *Rate of assessment.* Each handler shall pay to the committee, in accordance with § 998.48 of the marketing agreement, an assessment rate at the rate of $0.52 per net ton of farmers' stock peanuts received or acquired other than from those described in §§ 998.31(c) and (d). All funds generated from this assessment shall be for administrative expenses.

(d) *Indemnification reserve.* Monetary additions to the indemnification reserve, established in the 1965 crop year pursuant to the § 998.48 of the agreement, shall continue. That portion of the total assessment funds accrued from previous crop years and not expended in providing indemnification on 1990 crop peanuts shall be kept in such reserve and shall be available to pay indemnification expenses on subsequent crops.

Dated: April 11, 1990.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–8763 Filed 4–13–90; 8:45 am]

BILLING CODE 3410–02–M

Notices

Federal Register
Vol. 55, No. 73
Monday, April 16, 1990

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

Forest Service

Wildcat River Advisory Commission Meeting

AGENCY: Forest Service, USDA.

ACTION: Wildcat River Advisory Commission meeting.

SUMMARY: The Wildcat River Advisory Commission will hold its initial meeting on May 11, 1990. The meeting will be held at the Christmas Tree Farm Inn in Jackson, New Hampshire and begin at 7:30 p.m. An agenda for the meeting includes the introduction and installation of Advisory Commission members; a review and discussion of the Advisory Commission Charter; and a review of information resources available to the Commission. This meeting is being publicized through local and regional news media. Interested members of the public are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions about this meeting to Carl F. Gebhardt, Staff Officer, White Mountain National Forest, 719 Main Street, Laconia, NH 03247, (phone 603–528–8778).

Dated: April 10, 1990

William L. Eley,

Acting Forest Superior.

[FR Doc. 90–8743 Filed 4–13–90; 8:45 am]

BILLING CODE 3410–11–M

Rural Electrification Administration

Northern Lights, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, as amended, the Council on Environmental Quality Regulations (40 CFR parts 1500–1508), and REA Environmental Policies and Procedures (7 CFR part 1794), has adopted an Environmental Assessment (EA) prepared by the Federal Energy Regulatory Commission (FERC) for the Smith Falls Hydroelectric Project and made a Finding of No Significant Impact (FONSI) with respect to a project proposed by Northern Lights, Inc. (Northern Lights) and the Idaho Natural Energy, Inc. The project consists of construction, operation, and maintenance of the Smith Falls Transmission Line between the Smith Falls Step-up Station and an existing Bonneville Power Authority Substation (Bonners Ferry Substation) in Bonners Ferry, Idaho. The proposed transmission line is approximately 48 kilometers (30 miles) in length.

The Smith Falls Hydroelectric project will be located on Smith Creek in Boundary County, Idaho, near the town of Porthill, Idaho, and will be located within the Kaniksu National Forest.

FOR FURTHER INFORMATION CONTACT: REA's FONSI, the EA prepared by FERC as supplemented by REA and Northern Lights' Borrower's Environmental Report (BER), may be reviewed at and copies obtained from the office of the Director, Northwest Area—Electric, REA, Room 0230, South Agriculture Building, Washington, DC 20250, telephone (202) 382–1400, or at the office of Northern Lights, P.O. Box 310, Sandpoint, Idaho 83864, telephone (208) 263–5141, during regular business hours. Copies of the above documents can be obtained from either of the contacts listed above. Questions or comments on the proposed project should be sent to the REA contact.

SUPPLEMENTARY INFORMATION: REA has reviewed the BER submitted by Northern Lights as well as the EA obtained from FERC and has determined that they represent an accurate assessment of the environmental impact of the proposed project.

The Hydroelectric Project works consist of: (1) a 2.4 meter (8 feet) high, 22.8 meter (75 feet) wide concrete diversion dam having sluice gates, trashracks, fish screens, and a fish bypass located at elevation 1,052 meters (3,450 feet); (2) a 8,464 meter (27,770 feet) long steel penstock with a diameter varying from 183 centimeters (72 inches) to 152 centimeters (60 inches); (3) a 30 meter (100 feet) wide, 15 meter (50 feet) long, 9 meter (30 feet) high powerhouse containing two generating units with a total installed capacity of 30 MW, producing an estimated average annual energy output of 81.8 million kWh; (4) a 6 meter (20 feet) wide, 9 meter (30 feet) long tailrace discharging water released from the turbines into Smith Creek above Smith Falls at elevation 561 meters (1,840 feet); (5) 4.16 kV generator leads; (6) a 4.16/115 kV, 25/30/35–MVA transformer; (7) a 213 meter (700 feet) long, 115 kV transmission line intersecting the existing Northern Lights' distribution line; (8) 48 kilometers (30 miles) of existing Northern Lights' distribution line upgraded to 115 kV leading to an existing Bonneville Power Authority Substation in Bonners Ferry, Idaho; (9) a 335 meter (1,100 feet) long, 6 meter (20 feet) wide access road allowing access from Forest Service Road No. 281 to the south side of the diversion structure; (10) an existing 61 meter (200 feet) long logging road widened to permit access to the diversion dam from the north side; and (11) appurtenant facilities.

Smith Falls Hydropower of Utah will finance, design, construct and own the Smith Falls Transmission Line. The Smith Falls Transmission Line will be constructed to accommodate a single three-phase distribution voltage underbuild on the North Branch-Project segment of the Smith Falls Transmission Line. Northern Lights will operate, maintain, and repair the Smith Falls Transmission Line. Approximately 6 years after the construction of the transmission line, ownership of the line will be transferred from Smith Falls Hydropower to Northern Lights including associated easements and other land rights.

REA has determined that the BER and the FERC EA as supplemented by REA adequately consider the potential impacts of the proposed Smith Falls Transmission Line project and concluded that approval of the project would not result in a major Federal action significantly affecting the quality of the human environment. REA determined that the proposed project will have no effect on cultural resources, important farmland, floodplains, wetlands, water quality or threatened or endangered species or critical habitat.

REA has identified no other matters of potential environmental concern related to the proposed project.

Alternatives examined for the proposed project include no action and alternative transmission line routes. REA determined that the proposed project is an environmentally acceptable alternative that meets Northern Lights' need with a minimum of adverse environmental impact. REA has concluded that project approval would not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, the preparation of an environmental impact statement is not necessary.

In accordance with their regulations, FERC published notices and requested comments on the application submitted by Idaho Natural Energy, Inc. All comments received were adequately addressed in FERC EA. The notices published by FERC meet the REA notice requirements contained in 7 CFR 1794.62.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees. For the reasons set forth in the final rule related notice to 7 CFR part 3015 subpart V in 50 FR 47034, November 14, 1985, this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Dated: April 5, 1990.

John H. Arnesen,

Assistant Administrator–Electric.

[FR Doc. 90–8723 Filed 4–13–90; 8:45 am]

BILLING CODE 3410–15–M

COMMISSION ON CIVIL RIGHTS

New Mexico Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Mexico Advisory Committee to the Commission will convene at 1 p.m. and adjourn at 4:00 p.m. on April 26, 1990 at the AMFAC Hotel, 2910 Yale Boulevard, S.E., Albuquerque, New Mexico 87106. The purpose of the meeting is to discuss civil rights issues affecting the State, and to plan future Advisory Committee projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Emma Armendariz, or Philip Montez, Director of the Western Regional Division (213) 894–3437. (TDD 213–894–3437). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 6, 1990.

Wilfredo J. Gonzalez,

Staff Director.

[FR Doc. 90–8768 Filed 4–13–90; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–806]

Initiation of Antidumping Duty Investigation: Phototypesetting and Imagesetting Machines, and Subassemblies Thereof From the Federal Republic of Germany

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce (the Department), we are initiating an antidumping duty investigation to determine whether imports of phototypesetting and imagesetting machines and subassemblies thereof (PTMs), from the Federal Republic of Germany (FRG) are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of PTMs from the FRG are materially injuring, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before May 4, 1990. If that determination is affirmative, we will make our preliminary determination on or before August 27, 1990.

EFFECTIVE DATE: April 16, 1990.

FOR FURTHER INFORMATION CONTACT: James P. Maeder, Jr., or Mary S. Clapp, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377–4929 or (202) 377–3965, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On March 20, 1990, we received a petition filed in proper form by Varityper, Inc. In compliance with the filing requirements of the Department's regulations (19 CFR, 353.12 (1989)), petitioner alleges that imports of PTMs from the FRG are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, a U.S. industry.

Petitioner has stated that it has standing to file the petition because it is an interested party, as defined under section 771(9)(C) of the Act, and because it has filed the petition on behalf of the U.S. industry producing the product that is subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, please file written notification with the Assistant Secretary for Import Administration.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in § 353.14 of the Department's regulations.

United States Price and Foreign Market Value

Petitioner's estimates of United States Price (USP) are based on (1) Linotype's (the FRG producer of PTMs) April 15, 1989 U.S. price list; (2) 1989 contracts to state governments and to the General Services Administration (GSA) offered by Linotype; and (3) advertised "special" packages offered by Linotype to its U.S. customers. Petitioner did not make any further adjustments to USP under the first two methodologies. USP under the third methodology was treated as exporter's sales price and was adjusted for general, selling and administrative (GS&A) expenses.

Petitioner's estimate of foreign market value (FMV) for PTMs is based on sales prices of Linotype's products in the FRG obtained by one of Varityper's customers in the FRG. Pricing information was obtained through market contacts as well as through the company's own sales experience. Petitioner provided list and discount prices for sales of Linotype models for fourth quarter 1988 through fourth

quarter 1989. The petitioner made its LTFV comparisons based on essentially identical merchandise.

We have accepted as the basis for the LTFV allegation petitioner's comparison of USP under the first two methodologies. However, we revised petitioner's second methodology by using an FMV from the third quarter of 1988 since it more closely matched the probable date of the United States sale.

We have not accepted as a basis for the LTFV allegation petitioner's comparison involving the "special" package sale prices because inadequate support for USP was provided.

On April 6, 1990, petitioner submitted information concerning a 1990 contract price with GSA. This submission was received too late to be analyzed for purposes of this initiation.

On the basis on the first and second methodologies, the estimated dumping margins range from 6.3 to 17 percent.

Initiation of Investigation

Under section 732(c) of the Act, the Department must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of an antidumping duty investigation, and whether the petition contains information reasonably available to the petitioner supporting the allegations.

We have examined the petition on PMTs from the FRG and found that the petition meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of PTMs from the FRG are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by August 27, 1990.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered or withdrawn from warehouse for consumption on or after this date will be classified solely according to the appropriate HTS subheadings. The HTS subheadings are provided for convenience and U.S. Customs Service purposes. The written description remains dispositive as to the scope of the product coverage.

Imports covered by this investigation are shipments of phototypesetting and imagesetting machines and certain subassemblies thereof, consisting of hardware and dedicated software capable of producing high resolution (600 or more dots per inch) type and/or images on a photographic medium, either film or paper. The photographic medium output permits a high quality of final printed output. This output serves the needs of various users for high-resolution printing and publishing. Included in the hardware are image controller/processors, image recorders, imagesetters and phototypsetters. Image controller/processors are sophisticated computers that are capable of manipulating text and graphics in a manner that allow them to be output on a page of photographic medium. Computer codes are received from a front-end device (computer workstation) and are rasterized (*i.e.*, converted into a pattern of on and off that create images or characters). These rasterized patterns/codes can be received by various output devices for transfer to the phogographic media. Phototypesetters and imagesetters create graphic and text output on photosensitive media (paper or film) by scanning a laser beam across the media. As each scans, it turns the laser on and off to create tiny light spots. When these spots hit the photosensitive media, the exposure creates tiny black dots called pixels.

The subassemblies included in the scope of the investigation are limited to customized printed circuit board assemblies for the equipment operating system and for compressing data, raster image processor assembiles, and laser image and optical assemblies. Some subassemblies may be classified as parts. Furthermore, the subassemblies included are not capable of being used for products other than phototypesetting and imagesetting machines.

Phototypesetting and imagesetting machines are provided for in HTS subheading 8442.10.00. Phototypsetting and imagesetting machine parts are provided for in HTS subheading 8442.40.00.

ITC Notification

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproperietary information. We will allow the ITC access to all privileged and business proprietary information in the Department's files, provided the ITC confirms in writing that it will not disclose such information either publicly or under administrative protective order without the written consent of the Deputy Assistant Secretary for Investigations.

Preliminary Determination by ITC

The ITC will determine by May 4, 1990, whether there is a reasonable indication that imports of PTMs from the FRG are materially injuring, or threaten material injury to, a U.S. industry. If its determiantion is negative, the investigation will be terminated; otherwise the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act.

Dated: April 9, 1990.

Lisa B. Barry,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-8700 Filed 4-13-90; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificates of Review

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of issuance of an amended Export Trade Certificate of Review, Application No. 88-2A017.

SUMMARY: The Secretary of Commerce has issued an amended Export Trade Certificate of Review to the Construction Industry Manufacturers Association ("CIMA") on April 9, 1990. The original Certificate was issued on May 26, 1989 (54 FR 24932, June 12, 1989).

FOR FURTHER INFORMATION CONTACT: Douglas J. Aller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4011-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing title III are found at 15 CFR part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary of Commerce to publish a summary of a Certificate in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the

United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

CIMA's Export Trade Certificate of Review has been amended to include the following company as a "Member" within the meaning of § 325.2(a) of the Regulations (15 CFR 325.2 (1)): General Engines Co., Inc., Thorofare, New Jersey.

Pursuant to section 304(a)(2) of the ETC Act, 15 U.S.C. 4014(a)(2), and 15 CFR 325.7, the amended Certificate is effective from January 8, 1990, the date on which the application for an amendment was deemed submitted.

A copy of the amended Certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Dated: April 9, 1990.

Douglas J. Aller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 90–8696 Filed 4–13–90; 8:45 am]

BILLING CODE 3510–DR–M

[C–357–801]

Certain Welded Carbon Steel Pipe and Tube From Argentina; Termination of Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of termination of countervailing duty administrative reviews.

SUMMARY: The Department has terminated the administrative reviews of two of the four countervailing duty orders on welded carbon steel pipe and tube from Argentina, initiated on October 25, 1989 and amended on December 5, 1989, for the period July 14, 1988 through December 31, 1988. The administrative reviews of heavy-walled rectangular tubing and light-walled rectangular tubing are terminated. The administrative reviews of standard pipe and line pipe will continue unaffected by these terminations.

EFFECTIVE DATE: April 16, 1990.

FOR FURTHER INFORMATION CONTACT: Patricia Cooper or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION: On September 29, 1989, the Government of Argentina requested administrative reviews of the countervailing duty orders on standard pipe, line pipe, heavy-walled rectangular tubing, and light-walled rectangular tubing for the period July 14, 1988 through December 31, 1988. No other interested party requested the reviews. On October 25, 1989, the Department of Commerce initiated the administrative reviews for that period (54 FR 43438). The notice of initiation was amended on December 5, 1989 (54 FR 50306). The Government of Argentina withdrew its request for reviews of the countervailing duty orders on heavy-walled rectangular tubing and on light-walled rectangular tubing on January 9, 1990. As a result, the Department is now terminating the reviews of heavy-walled rectangular tubing and light-walled rectangular tubing. The administrative reviews of the countervailing duty orders on standard pipe and on line pipe will continue unaffected by this termination.

This notice is published in accordance with 19 CFR 355.22(a)(3).

Dated: April 4, 1990.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 90–8701 Filed 4–13–90; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Revisions and Clarifications to Meeting Notice

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

An agenda published in the **Federal Register** (55 FR 13304), on April 10, 1990, for public meetings during the week of April 22, 1990, for the North Pacific Fishery Management Council and Council advisory groups at the Hilton Hotel in Anchorage, AK, has been revised and clarified. With the exception of the following, all the other information originally published remains unchanged.

Meeting Revision

1. The Council's Scientific and Statistical Committee meeting, previously scheduled for April 22 at 1:30 p.m., has been rescheduled for April 23 at 1:30 p.m., and will reconvene on April 23 at 9 a.m.

Clarifications

1. The Council's Fishery Planning Committee will meet on April 22 at 3 p.m., and will reconvene on April 23 at 9 a.m.

2. The Council's Ad Hoc Bycatch Committee will meet on April 22 at 3 p.m., and will reconvene on April 23 at 9 a.m.

Added Agenda Item

1. The Pacific States Marine Fisheries Commission will hold an industry sea lion workshop on April 23 at 7 p.m.

FOR FURTHER INFORMATION CONTACT: Steve Davis, Deputy Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 271–2809.

Dated: April 11, 1990.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management National Marine Fisheries Service.

[FR Doc. 90–8781 Filed 4–13–90; 8:45 am]

BILLING CODE 3510–22–M

COMMISSION ON RAILROAD RETIREMENT REFORM

Meeting

ACTION: Meeting.

SUMMARY: The Commission on Railroad Retirement Reform ("the Commission") will hold a public meeting on Wednesday, May 2, through Thursday, May 3, 1990. The Commission was established by Section 2101 of the Omnibus Budget Reconciliation Act of 1987, Public Law 100–203, enacted December 22, 1987.

DATE, TIME, AND PLACE: Wednesday, May 2, 1990, 9:30 AM through Thursday, May 3, 1990. The meeting will be held at the Association of American Railroads, 50 F Street, NW., Washington, DC (4th Floor Conference Center).

AGENDA: The open meeting will include the receipt of testimony, the review of various staff memorandums, and discussion of final report items.

FOR ADDITIONAL INFORMATION: Contact Maureen Kiser, 202–254–3223, Commission on Railroad Retirement Reform, 1111 18th Street, NW., Washington, DC 20036.

SUPPLEMENTARY INFORMATION: See **Federal Register**, volume 54 FR, No. 40,

Thursday, March 2, 1989, Page 8856.

Kenneth J. Zoll,

Executive Director.

[FR Doc. 90–8785 Filed 4–3–90; 8:45 am]

BILLING CODE 6820–63–M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

April, 5, 1990.

The USAF Scientific Advisory Board Ad Hoc Committee Summer Study on Techology Options and Conceps for Defeating Enemy Air Defenses will meet on 16–17 May 90 from 8 a.m. to 5 p.m. at the RAND Corp., 1700 Main Street, Santa Monica, CA 90406–2138.

The purpose of this meeting will be to receive briefings relevant to Technology Options and Concepts for Defeating Enemy Air Defenses. This meeting will involve discussions of classified defense matters listed in section 552b (c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90–8753 Filed 4–13–90; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

April, 5, 1990.

The USAF Scientific Advisory Board Ad Hoc Committee Summer Study on Technology Options and Concepts for Defeating Enemy Air Defenses will meet on 1–3 May 90 from 8 a.m. to 5 p.m. at the ANSER Corp., 1215 Jefferson Davis Hwy, Arlington, VA.

The purpose of this meeting will be to receive briefings relevant to Technology Options and Concepts for Defeating Enemy Air Defenses. This meeting will involve discussions of classified defense matters listed in section 552(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697–4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90–8754 Filed 4–13–90; 8:45 am]

BILLING CODE 3910–01–M

Department of the Navy

Intent To Prepare Environmental Impact Statement for Possible Closure of Naval Shipyard Philadelphia and Naval Station Philadelphia, PA

Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500–1508), the Department of the Navy announces its intent to prepare an Environmental Impact Statement (EIS) to evaluate the environmental effects of the possible closure of Naval Shipyard (NAVSHIPYD) Philadelphia and Naval Station (NAVSTA) Philadelphia, Pennsylvania. This action is taken pursuant to the Secretary of Defense announcement of January 29, 1990, of candidate bases to be evaluated for possible closure or realignment. This EIS will be part of a report submitted to the Congress in conjunction with the President's annual Department of Defense Budget Authorization request.

The EIS will evaluate the environmental effects of possible closure of NAVSHIPYD and NAVSTA and, to the extent known, of possible relocations of some of these facilities to other locations. It will address the No Action alternative. The EIS will not address the ultimate disposal and possible re-use options of NAVSHIPYD or NAVSTA, as these possible future scenarios cannot be clearly defined. Disposal and subsequent re-use of NAVSHIPYD or NAVSTA will be evaluated in subsequent environmental documentation when these issues are more defined and ripe for evaluation in accordance with NEPA.

Local/regional impacts may include decreased demand on community services, decrease in school enrollments, decreased vehicular traffic, potential increase in available rental properties, and decreased chance of oil spills. These impacts may be reversed for locations receiving relocated facilities.

The Navy will initiate a scoping process for the purpose of determining the scope of issues to be addressed in the EIS and for identifying the significant issues related to this action. The Navy will hold a public scoping meeting on May 3, 1990, from 2 p.m. to 5 p.m. and 7 p.m. to midnight at the Harrison Auditorium of the University Museum, University of Pennsylvania, 33rd and Spruce Streets, Philadelphia, Pennsylvania. This meeting will be announced in local newspapers.

A short formal presentation will precede request for public comment. Navy representatives will be available at this meeting to receive comments from the public regarding issues of concern to the public. It is important that federal, state, and local agencies and interested individuals take this opportunity to identify environmental concerns that should be addressed during the preparation of the EIS. In the interest of available time, each speaker will be asked to limit their oral comments to five (5) minutes.

Agencies and the public are also invited and encouraged to provide written comment in addition to, or in lieu of, oral comments at the public meetings. To be most helpful, scoping comments should clearly describe specific issues or topics which the commentor believes the EIS should address. Written statements and or questions regarding the scoping process should be mailed no later than 30 days from the date of this notice to Northern Division, Naval Facilities Engineering Command U.S. Navy Base, Philadelphia, PA 19112–5000 (Attn: Mr. Robert Ostermueller, Code 2022, telephone (215) 897–6262).

Dated: April 11, 1990.

Sandra M. Kay,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 90–8747 Filed 4–13–90; 8:45 am]

BILLING CODE 3810–AE–M

Intent To Prepare Environmental Impact Statement for Possible Closure of Naval Air Station South Weymouth, MA

Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500–1508), the Department of the Navy announces its intent to prepare an Environmental Impact Statement (EIS) to evaluate the environmental effects of the possible closure of Naval Air Station (NAS) South Weymouth. This action is taken pursuant to the Secretary of Defense announcement of January 29, 1990 of candidate bases to be evaluated for possible closure or realignment. This EIS will be part of a report submitted to the Congress in conjunction with the President's annual Department of Defense Budget Authorization request.

The EIS will evaluate the environmental effects of possible closure of NAS and, to the extent known, of possible relocations of some NAS facilities to other locations. It will address the No Action alternative. The EIS will not address the ultimate disposal and possible re-use options of

NAS, as these possible future scenarios cannot be clearly defined.

Disposal and subsequent re-use of NAS will be evaluated in subsequent environmental documentation when these issues are more defined and ripe for evaluation in accordance with NEPA.

Local/regional impacts may include decreased demand on community services, decrease in school enrollments, decreased vehicular traffic, potential increase in available rental property, and decreased noise from Naval air operations. These potential impacts may be reversed at locations receiving relocated facilities.

The Navy will initiate a scoping process for the purpose of determining the scope of issues to be addressed in the EIS and for identifying the significant issues related to this action. The Navy will hold a public scoping meeting on May 1, 1990 from 2 p.m. to 5 p.m., and from 7 p.m. to midnight at the South High School, South Weymouth, Massachusetts. This meeting will be announced in local newspapers.

A short formal presentation will precede request for public comment. Navy representatives will be available at this meeting to receive comments from the public regarding issues of concern to the public. It is important that federal, state, and local agencies and interested individuals take this opportunity to identify environmental concerns that should be addressed during the preparation of the EIS. In the interest of available time, each speaker will be asked to limit their oral comments to five (5) minutes.

Agencies and the public are also invited and encouraged to provide written comment in addition to, or in lieu of, oral comments at the public meetings. To be most helpful, scoping comments should clearly describe specific issues or topics which the commentor believes the EIS should address. Written statements and or questions regarding the scoping process should be mailed no later than 30 days from the date of this notice to Northern Division, Naval Facilities Engineering Command, U.S. Navy Base, Philadelphia, PA 19112–5000, (Attn: Mr. Robert Ostermueller, Code 2022, telephone (215) 897–6262).

Dated: April 11, 1990.

Sandra M. Kay,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 90–8748 Filed 4–13–90; 8:45 am]

BILLING CODE 3810–AE–M

Public Hearings for the Draft Environmental Impact Statement for Operation of Electromagnetic Pulse Radiation Environment Simulator for Ships (EMPRESS II) in Gulf of Mexico

Pursuant to Council on Environmental Quality regulations (40 CFR parts 1500–1508) implementing procedural provisions of the National Environmental Policy Act; and, in accordance with Executive Order 12114, Environmental Effects Abroad of Major Federal Actions, the Department of the Navy has prepared and filed with the U.S. Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) for the operation of the Electromagnetic Pulse Radiation Environment Simulator for Ships (EMPRESS II) in both fixed point and underway station-keeping configurations in the Gulf of Mexico.

Public hearings to inform the public of the DEIS findings and to solicit comments will be held on:

May 2, 1990—beginning 7 p.m. at the Gulf Coast Research Laboratory, J.L. Scott Marine Education Center, 1650 East Beach Blvd., Biloxi, Mississippi;

May 3, 1990—beginning 7 p.m. at the Jackson-George Regional Library, 3214 Pascagoula Street, Pascagoula, Mississippi;

May 4, 1990—beginning 7 p.m. at the B.C. Rain High School, 3125 Dauphin Island Parkway, Mobile, Alabama.

These hearings will be conducted by the U.S. Navy and all oral statements will be transcribed by a stenographer. It is important that federal, state, and local agencies, organizations and individuals take this opportunity to express their views. However, in order to allow all present an opportunity to speak, statements will be limited to five (5) minutes. If longer statements are necessary, they should be delivered in writing either at the hearing or mailed to Commander, Naval Sea Systems Command (Attn: Lieutenant Jay Rose, PMS–423), Washington, DC 20352–5101, and summarized at the public hearing. All written statements must be postmarked by May 21, 1990, to become part of the official record. All statements, both oral and written, will become part of the public record on this study. Equal weight will be given to both oral and written statements.

As discussed in the DEIS, EMPRESS II is a transportable, barge-mounted, ocean capable Electromagnetic Pulse (EMP) simulator which will be used to identify electronic systems that are vulnerable to EMP, and to validate those systems for which EMP protection has been provided. At present, EMPRESS II is authorized to operate in international waters of the Atlantic Ocean about 20 miles off the coast of North Carolina. As a consequence of weather and sea conditions, the Atlantic Ocean operations are restricted to the months of June-August. A winter operating site is desired to meet testing requirements and provide for scheduling flexibility. The Gulf of Mexico site has been selected for study essentially by applying the same requirements that ultimately led to the selection of the Atlantic Ocean site. The site selection criteria included:

— Naval control of surface/air operations,
— Minimal impact on commercial shipping/air operations,
— Relatively isolated environment,
— Maneuvering room with water depths of at least 50 feet,
— No blocking of defined shipping channels,
— Minimal socio-economic/environmental impact,
—Proximity to Navy ships and shipyards,
—Proximity to commercial naval shipbuilding yards,
—Proximity to Navy training areas,
—Acceptable transit time from berth to operating area,
—Adequate expanse to effect a surface exclusion zone two nautical miles in radius from the EMPRESS II facility,
—Adequate expanse to effect an air exclusion zone, 6000 feet above the EMPRESS II facility.

Based upon these requirements, the DEIS analyzed the following alternative operating areas, none of which is closer than 25 nautical miles from the nearest land mass:

Alternative	Latitude	Longitude	Military designation
	29 17'00" N.	88 30'00" W.	
1	29 17'00" N.	88 01'30" W.	Eagle Gulf 1.
	29 32'00" N.	88 30'00" W.	
	29 32'00" N.	88 01'30" W.	
	29 36'00" N.	88 01'00" W.	
2	29 48'30" N.	88 37'00" W.	Lanes 5 & 6 of W-155A.
	29 48'30" N.	88 01'00" W.	
	29 32'30" N.	88 37'00" W.	
	29 00'30" N.	88 01'00" W.	
3	29 13'00" N.	88 37'00" W.	Lane 7 of W-155B.
	29 13'00" N.	88 01'00" W.	
	28 51'00" N.	88 37'00" W.	

Alternative	Latitude	Longitude	Military designation
4			The combined use of alternatives 2 and 3.

Mobile, Alabama; Gulfport, Mississippi; and Pascagoula, Mississippi are being considered as berthing sites for EMPRESS II. The services required for EMPRESS II berthing and maintenance are no different than those required by most ships.

The DEIS evaluated the alternatives of No Action; Analysis and Computer Modeling; Laboratory Testing, including Scale Model Testing and Direct-Injection Testing; Land-Based EMPRESS II; and Coastal Operating Sites.

If approved, operations in the Gulf of Mexico would be conducted during the months of November–April, for up to approximately 10 hours a day. No more than 60 days during the period of November–April would be used for testing. The public would be notified in advance of the EMPRESS II test schedule, and the associated restrictions would be published by appropriate entries in "Notice to Mariner" and "Notice to Airmen."

The restrictions consist of a two nautical mile radius exclusion zone around EMPRESS II, extending from the surface to an altitude of 6000 feet. The purpose of the exclusion zone is to prevent any damage to shipboard and aircraft electronics that are not a part of the EMPRESS II testing. There would be no adverse effects to electronic equipment which is outside the exclusion zone. The Navy would attempt to minimize the effects of the exclusion zone by coordinating, when possible, pulsing operations with other users of the test area. The Navy would provide a vessel to patrol and observe the test area in order to ensure there are no inadvertent incursions into the exclusion zone. Procedural measures would preclude EMPRESS II pulsing if surface vessels or aircraft not a part of the EMPRESS II test are within the exclusion zone.

The DEIS provides a comprehensive analysis of primary issues identified during the scoping process including endangered or threatened species; the effect of EMP on the environment, marine biota and human health; the impact of EMPRESS II operations on recreational and commercial activities including fishing, oil and gas operations; and the impact of EMPRESS II operations on land-based activities.

After more than four years of testing by independent researchers in laboratories and under actual field conditions, no evidence has been found to indicate that EMP pulsing from EMPRESS II will significantly affect the environment.

Dated: April 11, 1990.

Sandra M. Kay,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 90–8750 Filed 4–13–90; 8:45 am]

BILLING CODE 3810–AE–M

Public Hearing for Draft Environmental Impact Statement for Proposed Development at Naval Base Pearl Harbor, Oahu, HI

Pursuant to Council on Environmental Quality regulations (40 CFR Parts 1500–1508) implementing procedural provisions of the National Environmental Policy Act, the Department of the Navy in cooperation with the U.S. Coast Guard and U.S. Army Corps of Engineers has prepared and filed with the U.S. Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) for proposed development at Naval Base Pearl Harbor, Oahu, Hawaii. The DEIS has been distributed to various federal, state and local agencies, elected officials, interest groups, the media and local libraries. Questions regarding this notice may be directed to Commander, Pacific Division, Naval Facilities Engineering Command (Attn: Mr. Gordon Ishikawa, telephone (808) 471–3088) Pearl Harbor, HI 96860–7300. A limited number of copies of the DEIS are available to fill single copy requests.

A public hearing to inform the public of the DEIS findings and to solicit comments will be held on May 15, 1990 at 7 pm at the Aliamanu Intermediate School Cafeteria, 3271 Salt Lake Boulevard, Honolulu, Hawaii.

The public hearing will be jointly conducted by the U.S. Navy, U.S. Coast Guard, and U.S. Army Corps of Engineers. Federal, state, and local agencies and interested parties are invited and urged to be present or represented at the hearing. In the interest of available time, each speaker will be asked to limit their oral comments to five (5) minutes. If longer statements are to be presented, they should be submitted in writing either at the hearing or mailed to the Commander, Pacific Division, Naval Facilities Engineering Command, Pearl Harbor, HI 96860–7300, and summarized at the public hearing. All written statements must be postmarked by May 29, 1990, to become part of the official record.

Oral statements will be heard and transcribed by a stenographer; however, to assure accuracy of the record all statements should be submitted in writing. All statements, both oral and written, will become part of the public record on this study. Equal weight shall be given to both oral and written statements.

As discussed in the DEIS, the Navy proposed the construction of various improvements at Naval Base Pearl Harbor. The improvements are required to support various activities, including the homeporting of a battleship and two cruisers to support recommendations of the Secretary of Defense Commission on Base Realignment and Closure.

Three major components are included as part of the proposed action:

(1) A retractable bridge connecting Ford Island to the rest of the Naval Base,

(2) Further development of Ford Island, and

(3) Various operational and personnel support facilities on Ford Island, Naval Station Pearl Harbor, and Naval Shipyard Pearl Harbor.

Each major component is functionally independent of the others and could be implemented as a separate action.

Retractable Floating Bridge

The proposed bridge would be constructed to improve access to Ford Island and, hence, make possible further development of the island to serve existing and future missions at the Naval Base. Development of the mainside Pearl Harbor complex has reached the saturation point, while Ford Island contains 300 acres of open space (out of a total of 450 acres) which is not being used to its fullest possible potential by the Navy. Given improved access, approximately 2,800 feet of ship berthing space and other facilities could be put to more effective use. The slow and inefficient vehicular ferry and passenger boat transportation system presently in operation severely constrains the potential use of Ford Island's vacant land and underused facilities.

The preferred alternative for providing access is a 4,100 foot long retractable floating bridge, which would consist of a concrete bridge with a channel to allow passage of large vessels through the retractable span, and a fixed side span to allow passage for small boats. The bridge will have the following navigational clearances: horizontal, 100 feet between fenders in the closed position and 650 feet

horizontal clearance in the open position; vertical, 30 feet above mean high water in the closed position and unlimited vertical clearance in the open position. The Ford Island terminus of the proposed retractable floating bridge would be to the north of the existing housing area, intersecting Saratoga Boulevard; the mainside terminus would be near Halawa Landing, north of the Bowfin Memorial and south of the Navy marina.

Alternatives to the retractable floating bridge include no action, expanded water-based system, fixed pile bridge without a moveable span, and sunken tube tunnel. Alternative termini on Ford Island for the retractable floating bridge, fixed bridge and tunnel alternatives include a terminus passing north of the Public Works Center, intersecting the realigned Saratoga Boulevard west of its present junction with Princeton Place; and a terminus passing through the housing area on the east end of the island, intersecting Lexington Boulevard west of the Arizona Memorial. Alternative termini on mainside include the Richardson Recreation Center and McGrew Point.

Further Development of Ford Island

The Navy has always planned to develop Ford Island with various operational and personnel support facilities because of the availability of land and extreme crowding on the mainside of the Naval Base. With improved access to Ford Island, the construction of housing on the island becomes feasible. About 100 acres in the old runway area would be available for family housing. The runway is currently used as a general aviation practice landing airfield. These general aviation practice exercises will be displaced. Alternatives include: No Action (build no new housing and have families find housing elsewhere, either in existing military housing or in the private sector); construct 1,200 housing units on Ford Island, which most likely would consist of a mixture of low and mid-rise buildings; and construct about 600 to 700 units on Ford Island and accommodate the remaining units in existing military housing areas, new military housing at other locations, or in the private sector. An alternative site considered for development in lieu of Ford Island is the Manana land and Pearl City Junction, which are the only large tracts of Navy-owned land near the Naval Base. Another alternative to the development of Ford Island would be increased development on the Naval Station by the building of high-rise structures and more buildings with the concurrent loss of open space and parking.

Operational and Personnel Support Facilities

The following projects will be required to support the homeporting of a battleship and two cruisers in response to recommendations of the Base Realignment and Closure Commission, and Congressional mandate. Proposed facilities include the upgrading of Berth F–5 and construction of a new pier outboard from the existing pier on Ford Island to accommodate the battleship, including maintenance dredging, utilities improvements and shore support facilities; upgrading the fender system at Wharf Bravo berths B20 and B21, and upgrading shore power outlets and electrical distribution at berths B23 and B24 to accommodate the two cruisers; new fender systems along berths B15 and B18, and upgrading shore power outlets and electrical distribution at berth B25 and Mike Dock M3 to support the two cruisers; a 4,800 square foot pre-engineered building at Naval Shipyard Pearl Harbor to store parts for the homeported battleship; a 7,200 square foot addition to the Applied Instruction Building (Building 1377) at the Naval Station to provide additional training and administrative space required for Mobile Technical Unit One (MOTU–1); three new buildings at the Naval Station to house transient enlisted personnel, administrative and shop space for the Transient Personnel Unit (TPU), and enlisted personnel assigned to the station; a 5,500 square foot addition to the club on Ford Island (Building 38) to house a snack bar, restrooms, and storage; and Fleet Shoreside Support Center on Ford Island consisting of an amusement center, laundromat, outdoor basketball/volleyball courts, playing fields and racquetball courts.

Alternatives to these proposed Operational and Personnel Support Facilities include postponing the action and using other locations for specific projects. For the proposed Applied Instruction Building Addition, two specific alternatives have been considered: different design, and training of ship personnel on the west coast. An additional alternative to the proposed TPU unit/BEQ is the use of civilian accommodations. In accordance with provisions of the Base Realignment and Closure Act of 1988, the No Action alternative will not be considered in this EIS for these proposed facilities.

Extensive comprehensive studies and surveys were conducted in support of the DEIS. These studies were on various subject areas, such as marine biology, physical oceanography and water quality, historic and archaeological sites, air quality, noise, traffic, navigation, aesthetics, and socioeconomic impacts. The DEIS provides the result of these studies and describes the impacts of the proposed actions and the mitigative measures proposed.

Dated: April 11, 1990.

Sandra M. Kay,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 90–8751 Filed 4–13–90; 8:45 am]

BILLING CODE 3810–AE–M

Public Hearing for Draft Environmental Impact Statement for Navy Broadway Complex Project, San Diego, CA

Pursuant to Council on Environmental Quality regulations (40 CFR parts 1500–1508) implementing procedural provisions of the National Environmental Policy Act, the Department of the Navy has prepared and filed with the U.S. Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) for proposed redevelopment of the Navy Broadway Complex in San Diego, California. The DEIS has been distributed to various federal, state and local agencies, elected officials, interest groups, the media and local libraries. A limited number of copies are available to fill single copy requests from the address listed at the end of this notice.

A public hearing to inform the public of the DEIS findings and to solicit comments will be held on May 16, 1990 at 7 p.m. in the San Diego City Administration Building, 12th Floor Committee Room, 202 "C" Street, San Diego, CA 92101. Please enter through the Terrace Level.

The public hearing will be conducted by the U.S. Navy. Federal, state, and local agencies and interested parties are invited and urged to be present or represented at the hearing. In the interest of available time, each speaker will be asked to limit their oral comments to five (5) minutes. If longer statements are to be presented, they should be submitted in writing either at the hearing or mailed to the Officer in Charge, Western Division, Naval Facilities Engineering Command, Broadway Complex, 555 W. Beech Street, Suite 101, San Diego, CA 92101–2937, and summarized at the public hearing. All written statements must be postmarked by June 4, 1990 to become part of the official record.

Oral statements will be heard and transcribed by a stenographer; however, to assure accuracy of the record all statements should be submitted in writing. All statements, both oral and

written, will become part of the public record on this study. Equal weight shall be given to both oral and written statements.

As discussed in the DEIS, the Navy proposes to consolidate many regional administrative activities of the San Diego naval shore establishment at the Navy Broadway Complex. The redevelopment of the Complex through a public/private venture, authorized by Public Law 99–661, would include a mix of office, hotel and retail uses aggregating 3.25 million square feet of space, of which up to 1 million square feet would be specifically available for Navy use. The Navy and the City of San Diego contemplate entering into an agreement to establish development parameters for the property. The project would include a public open space, a museum, and specific design guidelines consistent with existing plans for the area. Beneficial impacts to land use, viewsheds, recreational facilities and socioeconomics would result.

The DEIS addresses the issues of transportation and circulation, land use and planning, aesthetics and viewshed, public services and utilities, socioeconomics, physical environment, geological resources, air quality, noise, cultural resources, coastal policy consistency, public health and safety, and energy and conservation. Alternatives assessed in the DEIS include variations of combined Navy/private commercial development, development of Navy office space only on the site, commercial development of the site in conjunction with an alternative location for Navy office space in downtown San Diego, and No Action.

Transportation demand management measures would reduce the potential air quality impact of the project. According to the California Air Resources Board, incorporation of these measures would demonstrate consistency with the State Implementation Plan.

The regional Air Quality Strategy establishes a goal of maintaining a Level of Service (LOS) "C" or better at intersections to reduce vehicle idling times and emissions. Cumulative development in the project vicinity would create congestion (LOS "D" or below) at six intersections. The proposed project would contribute a substantial increment to this congestion at one or two of these intersections. City of San Diego standards provide that this incremental contribution to the region's non-attainment of ozone and carbon monoxide standards is a cumulatively significant impact. However, since the project site is located within the Centre City where a densification of uses is necessary to support alternative commuting modes, the project is not considered to have a significant traffic impact, from an operation standpoint, after the implementation of prescribed intersection improvements.

Navy Broadway Complex Buildings 1 and 12 combined with the Navy Pier (located outside the project boundaries) form a unit that represents every major period of Navy development at this location. As a unit they appear to qualify as eligible for listing on the National Register of Historic Places. The Navy proposes to record Buildings 1 and 12 in accordance with the Historic American Buildings Survey Standards prior to demolition or modification. Specific mitigation will be developed in consultation with the California State Historic Preservation Officer pursuant to the regulations (36 CFR 800) for implementing section 106 of the National Historic Preservation Act (16 U.S.C. 470f).

Dated: April 11, 1990.

Sandra M. Kay,

Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 90–8749 Filed 4–13–90; 8:45 am]

BILLING CODE 3810–AE–M

Rental of Navy Salvage Equipment

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy is authorized by 10 USC 7361–7367 to rent its salvage equipment to civilian companies in appropriate circumstances. Naval Sea Systems Command Instruction 4740.8 outlines the Navy's policy and procedures for rentals. Pursuant to that instruction, certain daily rental rates have been established and are published below.

EFFECTIVE DATE: January 1, 1990.

FOR FURTHER INFORMATION CONTACT: David P. Howe, Assistant Supervisor of Salvage (Admiralty), Naval Sea Systems Command (Code OOCL), Washington DC 20362–5101. Telephone (202) 697–7415.

SUPPLEMENTARY INFORMATION: The Navy does not maintain salvage facilities beyond its own requirements. It is authorized by 10 U.S.C. 7361–7367 to provide salvage facilities and assistance for private vessels in appropriate circumstances. This authority does not obligate the United States or the Department of the Navy to maintain excess salvage facilities, nor to render salvage assistance.

However, it is the policy of the Department of the Navy to assist in the salvage of privately owned vessels when such assistance is requested and is required by the circumstances, and where adequate privately owned salvage facilities do not exist or are not readily available.

Charges for salvage assistance by the Navy are independent of the values involved and of the success of the operation. The user will be billed the full amount of daily rental charges regardless of whether the vessel is salved or lost, and irrespective of the ultimate success or failure of the salvage operation.

The Navy adopts the per diem rates below as a matter of policy, and does not waive nor surrender the right to claim salvage. Per diem billing is made on the express condition that the bills be paid promptly and in full. Until receipt of full payment the Navy reserves the right to withdraw the per diem billing without notice and to present a claim for salvage under traditional principles of admiralty law.

Per diem rates charged for salvage services rendered by Navy vessels were published at 53 FR 4700–01 (17 Feb. 1988). For the rental of salvage equipment by the Navy the following rates apply for each day of 24 hours or part thereof:

(1) *Equipment type*	*Rate*
Class V skimmer vessel	$2,400
Class XI skimmer unit	2,400
24-foot tow boat	1,901
23-foot inflatable boat with motor	720
19-foot inflatable boat with motor	720
17-foot inflatable boat with motor	200
18-boat boom tending boat	144
Oil storagr bladder	355
40-foot command trailer	520
Copmmand van	520
Workshop van	400
Rigging van	400
Cleaning van	66
Oil containment boom (per 55-foot section)	129
Boom mooring system	47
8-ton portable crane	617
6-inch submersible hydraulic pump	900
Mod 6 hydraulic power unit	900
Mod 7 hydraulic power unit	300
Auger pump	185
Satellite communications system	393

The above charges apply from the time the equipment begins transportation from the site(e) where it is issued, until it is redelivered to that site. The renter will also be charged for all necessary repairs, including work necessary to refurbish the equipment to ready-for-issue condition, normal wear and tear excepted, and for transportation provided by the Government. The renter will be charged replacement costs for all equipment lost or damaged beyond economical repair.

Dated: April 10, 1990.

Sandra M. Kay,

Department of the Navy, Alternate Federal Register, Liaison Officer.

[FR Doc. 90-8746 Filed 4-13-90; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

[CFDA No. 84.190]

Notice of Alternative Distribution; Christa McAuliffe Fellowship Program

ACTION: Notice of Alternative Distribution; Christa McAuliffe Fellowship Program.

SUMMARY: The Secretary herein publishes an alternative distribution of Christa McAuliffe Fellowship awards for fiscal year 1990.

FOR FURTHER INFORMATION CONTACT: Janice Williams-Madison, Acting Director, Division of Discretionary Grants, (202) 732-4059.

SUPPLEMENTARY INFORMATION: Under section 563 of the Higher Educaton Act, if the appropriation for the Christa McAuliffe Fellowship Program is not sufficient to provide one fellowship in each congressional district of each State and one each in the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and Palau at a level not to exceed the national average salary of public school teachers, the Secretary "shall determine and publish an alternative distribution of fellowships which will permit fellowship awards at that level and which is geographically equitable."

For fiscal year 1990, funds will be allocated to the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and Palau based on relative numbers of public school teachers, provided no State or territory receives less than $31,200, the national average teacher salary for 1989. Awards to individual teachers may not exceed $31,200. The Secretary urges that fellowships be awarded in the maximum amount whenever possible.

Authority: 20 U.S.C. 1113-1113(e).

Dated: April 4, 1990.

(Catalog of Federal Domestic Assistance No. 84.190, Christa McAuliffe Fellowship Program)

John T. MacDonald,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 90-8729 Filed 4-13-90; 8:45 am]

BILLING CODE 4000-01-M

[CFDA No. 84.184A]

Inviting Applications for New Awards Under the Drug-Free Schools and Communities Program; Model Demonstration Grants to Institutions of Higher Education for Fiscal Year (FY) 1990

Purpose of program: To award grants to institutions of higher education (IHEs) for model demonstration programs coordinated with local elementary and secondary schools for the development and implementation of quality drug abuse education curricula.

Deadline for transmittal of applications: 6-15-90.

Applications available: 4-26-90.

Available funds: $5,000,000.

Estimated range of awards: $100,000-$500,000.

Estimated average size of awards: $250,000.

Estimated number of awards: 20.

Note: The Department is not bound by any estimates in this notice.

Project period: 18 months, with continuation for an additional 18 months contingent on availability of funds and satisfactory performance.

Applicable regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 81, 82, 85; (b) The regulations for Student Rights in Research, Experimental Programs and Testing in 34 CFR part 98; (c) The regulations for Family Educational Rights and Privacy in 34 CFR part 99; and (d) The regulations for this program in 34 CFR parts 764 and 765.

Absolute priority: In accordance with 34 CFR 765.4(e) and 34 CFR 75.105(c)(3), the Secretary gives absolute priority to joint projects involving faculty of IHEs, teachers in elementary and secondary schools, and community representatives in the practical application of the findings of educational research and evaluation and the integration of research into alcohol and other drug use education and prevention programs. Under 34 CFR 75.105(c)(3), the Secretary finds under this competition only applications that meet this absolute priority.

Invitational priorities: Within the absolute priority established above, the Secretary is particularly interested in applications that meet one or more of the following invitational priorities:

1. Projects that demonstrate the effectiveness of drug and alcohol abuse prevention strategies such as the social influences model; the use of positive peer influences; the implementation of comprehensive, community approaches; and other innovative approaches that target special populations (e.g. low-income, dropouts, and other high-risk groups). These demonstration projects should test these theories of prevention, assess techniques to improve program delivery, and modify effective strategies to expand services to other target populations.

2. Projects that demonstrate research-based strategies that focus on the specific knowledge, skills, and other factors that protect individuals from drug and alcohol use and abuse.

3. Projects that utilize research findings in the development and assessment of innovative methods and models for drug and alcohol abuse prevention. However, under 34 CFR 75.105(c)(1), an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over other applications.

Selection criteria: The program regulations at § 765.20 authorize the Secretary to distribute an additional 15 points among the criteria described in § 765.21 to bring the total to a maximum of 100 points. For the purpose of this competition, the Secretary will distribute the additional points as follows:

Evaluation plan. (section 765.21(d)) Ten (10) additional points will be added for a possible total of 20 points for this criterion; and

Contribution to improving the quality of drug and alcohol abuse education and prevention activities. (section 765.21(f)) Five (5) additional points will be added for a possible total of 30 points for this criterion.

FOR APPLICATION OR INFORMATION CONTACT: The Drug-Free Schools and Communities Staff, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue SW., room 2135, Washington, DC 20202-6349. Telephone (202) 732-4599.

Authority: 20 U.S.C. 3211.

Dated: April 6, 1990.

John T. MacDonald,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 90-8730 Filed 4-13-90; 8:45 am]

BILLING CODE 4000-01-M

[CFDA No. 84.184B]

Notice Inviting Applications for New Awards Under Drug-Free Schools and Communities Program; Federal Activities Grants Program for FY 1990

Purpose: To award grants to State educational agencies, local educational

agencies, institutions of higher education and other nonprofit agencies, organizations and institutions to support drug and alcohol abuse education and prevention activities.

Deadline for transmittal of applications: 6–15–90.

Applications available: 4–26–90.

Available funds: $500,000.

Estimated range of awards: $50,000–$150,000.

Estimated average size of awards: $100,000.

Estimated number of awards: 5.

Note: The Department is not bound by any estimates in this notice.

Project period: 18 months

Applicable regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, and 85; (b) The regulations for Student Rights in Research, Experimental Programs and Testing in 34 CFR part 98; (c) The regulations for Family Educational Rights and Privacy in 34 CFR part 99; and (d) The regulations for this program in 34 CFR parts 764 and 766.

Supplementary information: Research indicates that strong anti-drug policies, consistently enforced, are a deterrent to student drug use. The ultimate purpose of such policies is to keep students drug free *and* in school. Yet, these strong policies often result in suspension for students who violate the policies. As a result, some school districts are developing alternative programs to help students who have been suspended from school because of alcohol or other drug use return to school and complete graduation requirements. Generally, these programs provide support and personalized assistance, and often incorporate a variety of community resources. Consistent with the National Drug Control Strategy, the Department of Education is interested in projects that will expand and evaluate successful alternative programs.

Absolute priority: Under 34 CFR 75.105(c)(3) and 34 CFR 766.4(b) the Secretary gives an absolute preference to applications that meet the following priority:

Consistent with the authorized activities described in 34 CFR 766.3, proposed projects must be designed for students in one or more grades from grades six through twelve (6–12).

Under 34 CFR 75.105(c)(3) the Secretary funds under this competition only applications that meet this absolute priority.

Invitational priorities: Within the absolute priority specified in this notice, the Secretary is particularly interested in applications that meet the following invitational priorities:

- Applications for projects to expand and evaluate existing alternative programs—particularly programs that involve parents, local law enforcement officials, judicial officials, and community leaders—that use innovative approaches to help students who have been suspended or otherwise removed from school because of their alcohol or other drug use return to school and complete graduation requirements. (Funding requested may not include treatment services.)
- Applications for projects to develop materials for dissemination that describe the implementation of successful alternative programs—particularly programs that involve parents, local law enforcement officials, judicial officials and community leaders—that have proven to be effective in returning to traditional school settings students who have been suspended or removed because of their use of alcohol or other drugs.

However, under 34 CFR 75.105(c)(1) an application that meets either or both of these invitational priorities does not receive competitive or absolute preference over other applications.

Selection criteria: In accordance with 34 CFR 766.20, the Secretary distributes an additional 15 points among the criteria described in the regulations at § 766.21 to bring the total to a maximum of 100 points. For the purpose of this competition, the Secretary will distribute the additional points as follows:

Evaluation Plan: (§ 766.21(d)) Five (5) additional points will be added for a possible total of 15 points for this criterion.

Applicant's Commitment And Capacity: (§ 766.21(e)) Five (5) additional points will be added for a possible total of 15 points for this criterion.

Contribution To Improving The Quality of Drug And Alcohol Abuse Education And Prevention Activities: (§ 766.21(f)) Five (5) additional points will be added for a possible total of 30 points for this criterion.

For applications or information contact: Gail Beaumont, Drug-Free Schools and Communities Staff, U.S. Department of Education, 400 Maryland Avenue SW., room 2135, Washington, DC 20202–6329; Telephone: (202 732–3463.

Authority: 20 U.S.C. 3212.

Dated: April 6, 1990.

John T. MacDonald,

Assistant Secretary.

[FR Doc. 90–8731 Filed 4–13–90; 8:45 am]

BILLING CODE 4000–01–M

Meeting of National Assesment Governing Board

AGENCY: National Assessment Governing Board, Education.

ACTION: Notice of partically closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Executive Committee of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This notice is to inform the general public of its opportunity to attend the open portion of the meeting.

DATE: May 10, 1990.

TIME: 8 p.m. until 9 p.m. open; 9 p.m. until adjournment closed.

LOCATION: Hotel Washington, 15th and Pennsylvania Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Roy Truby, Executive Director, National Assessment Governing Board, U.S. Department of Education, Suite 7322, 1100 L Street, NW., Washington, DC, 20005–4013. Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 406(i) of the General Education Provisions Act (GEPA) as amended by Section 3403 of the National Assessment of Educational Progress Improvement Act (NAEP Improvement Act), Title III–C of the Augustus F. Hawkins—Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100–297) (20 USC 1221e–1).

The Board is established to advise the Commissioner for Education Statistics on policies and actions needed to improve the form and use of the National Assessment of Educational Progress, and develop specifications for the design, methodology, analysis and reporting of test results. The Board also is responsible for selecting subject areas to be assessed, identifying the objectives for each age and grade tested, and establishing standards and procedures for interstate and national comparisons.

The Executive Committee of the National Assessment Governing Board will meet in Washington, DC on May 10, 1990 from 8 p.m. until the completion of business. The Committee will convene in open session from 8 p.m. until 9 p.m. During the open portion of the meeting, the Committee will (1) review the final draft of the staff proposals for setting achievement goals for the NAEP; (2)

discuss plans for reducing NAEP timelines; and (3) report on reading and writing assessment objectives. From 9 p.m. until adjournment the meeting will be closed to the public under the authority of 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. Appendix 2) and under exemptions (2) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act (Pub. L. 94–409, 5 U.S.C. 552b). During the closed portion the Committee members will discuss the qualifications of nominees to make final determination of the best-qualified candidates for Board membership. Discussion during the closed portion will disclose matters that relate solely to the internal personnel rules and practices of an agency and information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected under exemptions (2) and (6) of 5 U.S.C. 552b(c).

A summary of the activities at the closed session and related matters, which are informative to the public consistent with the policy of 5 U.S.C. 552b, will be available to the public within fourteen days after the meeting.

Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, 1100 L Street, NW., Suite 7322, Washington, DC, from 8:30 a.m. to 5 p.m.

Christopher T. Cross,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 90–8734 Filed 4–13–90; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Fossil Energy

Office of Fossil Energy Merit Review System

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Program Notice.

SUMMARY: The Department of Energy, Office of Fossil Energy (FE) is publishing its Merit Review System for discretionary financial assistance applications in accordance with the requirements set forth in the Department of Energy Financial Assistance Rules, 10 CFR part 600, § 600.16.

EFFECTIVE DATE: May 15, 1990.

FOR FURTHER INFORMATION CONTACT: Dwight L. Mottet, Director, Division of Management and Administration (FE–122), Office of Fossil Energy, Department of Energy, 19901 Germantown Road, Germantown, MD 20874, (301) 353–3008.

SUPPLEMENTARY INFORMATION:

I. Purpose and Scope
II. Responsible Official
III. Deviations
IV. Application Evaluation

I. Purpose and Scope

A. This announcement sets forth the Fossil Energy Program policies and procedures applicable to the merit review and evaluation of discretionary financial assistance applications by the Department of Energy (DOE) Office of Fossil Energy (FE) for the following listed areas:

Control Technology and Coal Preparation; Advanced Research and Technology Development; Coal Liquefaction; Combustion Systems; Fuel Cells; Heat Engines; Underground Coal Gasification; Magnetohydrodynamics (MHD); Surface Coal Gasification; Unconventional Gas Recovery; Advanced Extraction and Process Technology; Enhanced Oil Recovery; Oil Shale; Fuels Conversion, Natural Gas and Electricity; Cooperative R&D Venture Pools; Fossil Energy Environmental Restoration; Federal Inspector—Alaska Gas Pipeline; Liquefied Gaseous Fuels Spill Test Facility; Innovative Clean Coal Technology; Naval Petroleum and Oil Shale Reserves; and Strategic Petroleum Reserve.

B. FE's research and development is primarily performed through the following Energy Technology Centers, Project Office, and Site Office:

Morgantown Energy Technology Center, Morgantown, West Virginia; Pittsburgh Energy Technology Center, Pittsburgh, Pennsylvania; Bartlesville Project Office, Bartlesville, Oklahoma; and Metairie Site Office, New Orleans, Louisiana.

II. Responsible Official

The Assistant Secretary for FE or his designee is responsible for this system of objective merit review of discretionary financial assistance applications funded by FE.

III. Deviation

Single-case deviations from the following procedures may be authorized in writing by FE's Assistant Secretary upon the written request by a member of the FE staff. Whenever a proposed deviation from this system of review would be a deviation from 10 CFR 600, the deviation must also be authorized in accordance with the procedures prescribed in that part.

IV. Application Evaluation

A. *Unsolicited Applications:* Unsolicited applications should be addressed to the U.S. Department of Energy, Pittsburgh Energy Technology Center (PETC), P.O. Box 10940, Pittsburgh, Pennsylvania 15236, Attention: Supervisor, Fossil Energy Unsolicited Proposal Operations, Building 921–165. The applications will be evaluated for funding generally within 6 months but, in any event, no later than 12 months from the date of receipt by DOE. The terms of the original application may be required to be revalidated by the applicant at the request of DOE if the application is held beyond a 6-month period.

1. *Qualifier Review:* All applicants are initially reviewed at PETC to verify that the applications have the appropriate information (e.g., company address, signature, etc.), and that the proposed effort adequately addresses the FE program. Those applications for which detailed evaluation is not warranted will be returned to the sender.

2. *Comprehensive Review:* A comprehensive review will be performed on all relevant unsolicited applications through the peer review process described below.

a. FE staff shall perform an initial technical evaluation of all applications to ensure that the proposed effort is technically sound and feasible, and that the effort is consistent with program funding priorities.

b. For applications which pass the initial evaluation, FE shall objectively evaluate each application received against the criteria set forth in paragraph IV,A,2.d. below. PETC supplements internal FE review resources with external reviewers when there are not sufficient internal reviewers, with the objective of having the technical/scientific evaluation conducted by the most qualified individuals available. Peer review groups consist of at least three members. At least one member is an FE official. The remaining members may be selected from within the Government, private industry, and/or academia.

c. FE selects evaluators on the basis of their professional qualifications and expertise in the field of research proposed in the application. Outside evaluators are required to comply with 10 CFR 600.16(c), 10 CFR 600.17, and any other applicable DOE rules or directives concerning the use of outside evaluators.

d. FE evaluates new and renewal applications based on the following criteria:

(1) The overall scientific and technical merit of the project;

(2) The relevance of the stated objectives to the FE program;

(3) The appropriateness of the proposed method or approach;

(4) The competence and experience and known past performance of the applicant, principal investigator, and/or key personnel;

(5) The adequacy of the applicant's facilities and resources; and,

(6) The appropriateness and adequacy of the proposed budget, and the availability of FE funds.

(7) In addition, FE may consider the recipient's performance under the existing assistance document during the evaluation of a renewal application.

e. After completion of all peer review evaluations, the evaluations are forwarded to the FE Action Officer for a final accept/reject decision. The Action Officer decides to either accept or reject the unsolicited application in accordance with 10 CFR 600.16. If the decision is to reject the application, the Action Officer prepares a justification for the decision and summarizes the results of the peer reviewer's comments. If the decision is to accept the application, the Action Officer forwards an acceptance memorandum and initiates the procurement process to make an award. In either case, the applicant is promptly notified of the Department's decision. Upon written request by the applicant, FE will provide a written summary of the evaluation results.

B. Applications in Response to Specific Fossil Energy Solicitations. FE has two areas wherein specific solicitation for financial assistance applications are requested i.e., the Clean Coal Technology and the University Coal Research programs, as described below.

1. Clean Coal Technology

a. For proposed cost-shared Cooperative Agreements in response to a specific Program Opportunity Notice solicitation from the Clean Coal Technology Program, the evaluations are performed through the Source Evaluation Board procedures, as described in DOE's Acquisition Regulation Handbook, Source Evaluation Board, DOE/MA 0154. The Source Selection Official designates the voting members of the Source Evaluation Board (SEB). The SEB is normally composed of five (5) voting members who are qualified DOE technical and administrative personnel; although, when appropriate, personnel from other Federal Government agencies may serve as voting or nonvoting SEB members. Committees may be created as necessary to assist the SEB. The evaluation criteria, weights (numerical or adjective), are identified in each specific solicitation.

b. Those applications in response to FE Clean Coal solicitations are evaluated and awarded on the schedule that may be contained in the enabling legislation. After completion of individual evaluations, reviewers discuss each application and a consensus is reached. The SEB tabulates rating scores arriving at an average numeric rating for each application. A summation of comments based upon each evaluator's detailed narrative discussions regarding the strong and weak points of each application is documented.

c. Depending on the rating plan employed, the manner in which a SEB reaches its final composite position may be through averages, curves, consensus or any other means which is reasonable and consistently followed. The method of reaching composite rating is a part of the rating plan which is established for each solicitation prior to opening of applications. The final application scores, rankings, and narrative discussion summaries and their findings are then provided to the Source Selection Official (SSO) for final selection decisions. The SSO utilizes the SEB's final evaluation and applies the solicitation's program policy factors to select a mix of projects that will best serve FE's program objectives.

d. Following selection, unsuccessful applicants, upon written request, will be afforded a debriefing. The debriefing by FE will address the application's strengths and weaknesses.

2. University Coal Research

a. For applications submitted in response to FE's Annual University Coal Research Program Solicitation, all evaluation criteria and their assigned weights, as well as all applicable program policy factors are identified and discussed in detail in each annual solicitation document. Each application is initially subjected to a preliminary review to ensure compliance with the application preparation instructions contained in the solicitation document.

Applications found to be in compliance with the solicitation's preparation instructions are then assigned to an appropriate technical category for comprehensive peer review and competition purposes. Once assigned to the appropriate technical category, applications are then evaluated by a four (4) member peer review group composed of one (1) DOE and three (3) non-DOE reviewers. The non-DOE reviewers typically consist of one (1) reviewer from private industry and two (2) from academia. Selection of the peer reviewers is based on their professional qualifications, expertise in the particular field of the proposed work, and their willingness to adhere to DOE's 10 CFR 600.17 (Conflict of Interest) and 10 CFR 600.16 (Confidentiality Agreement) restrictions.

b. Review for Organizational Conflict of Interest (OCI) Screening: Each evaluator reviews the abstract for possible conflict of interest in accordance with the provisions of 10 CFR 600.17. If no conflict exists, the evaluator signs the memorandum/letter agreement and proceeds with the evaluation. If a conflict exists, the evaluator returns the package unopened.

c. Evaluation and Selection: Within a technical category, each peer reviewer determines a numerical score for each application reviewed. A final composite score is then assigned to each application. This final composite score is determined by averaging the scores of the individual peer reviewers for each application. Applications are then ranked in descending order of composite technical score, with the highest scored application ranked first and the lowest scored application ranked last. This ranking for each technical category is presented to the selection official. Utilizing this ranking and applying the solicitation's program policy factors, FE's selection official selects a mix of projects from each technical category that will collectively best serve FE Program Objectives. Applicants whose applications are either selected or rejected will be promptly notified of DOE's decision.

d. Unsuccessful applicants, upon written request, will be provided a written summary of the evaluation results.

Issued in Washington, DC on April 6, 1990.

Robert H. Gentile,

Assistant Secretary, Fossil Energy.

[FR Doc. 90-8787 Filed 4-13-90; 8:45 am]

BILLING CODE 6450-1-M

[Docket No. FE C&E 90-08; Certification Notice—56]

Filing Certification of Compliance; Coal Capability of New Electric Powerplant

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of filing.

SUMMARY: Title II of the Powerplant and Industrial Fuel Use Act of 1978, as amended ("FUA" or "the Act") (42 U.S.C. 8301 *et seq.*) provides that no new electric powerplant may be constructed or operated as a base load powerplant without the capability to use coal or another alternate fule as a primary energy source (section 201(a), 42 U.S.C.

8311(a), Supp. V. 1987). In order to meet the requirement of coal capability, the owner or operator of any new electric powerplant to be operated as a base load powerplant proposing to use natural gas or petroleum as its primary energy source may certify, pursuant to section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date it is filed with the Secretary. The Secretary is required to publish in the **Federal Register** a notice reciting that the certification has been filed. One owner and operator of proposed new electric base load powerplant has filed a self certification in accordance with section 201(d).

Further information is provided in the **SUPPLEMENTARY INFORMATION** section below.

SUPPLEMENTARY INFORMATION: .The following company has filed a self certification:

Name	Date received	Type of facility	Megawatt capacity	Location
Mayflower Energy Partners, L.P., Melville, NY	3-23-90	Combined Cycle	310	Islip, NY.

Amendments to the FUA on May 21, 1987 (Pub. L. 100-42) altered the general prohibitions to include only new electric base load powerplants and to provide for the self certification procedure.

Copies of this self certification may be reviewed in the Office of Fuels Programs, Fossil Energy, room 3F-056, FE-52, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, phone number (202) 586-6769.

Issued in Washington, DC on April 10, 1990.

Constance L. Buckley,

Deputy Assistance Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-8788 Filed 4-13-90; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commision

[Docket Nos. ER90-298-000, et al.]

Pennsylvania Power & Light Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

April 6, 1990.

Take notice that the following filings have been made with the Commission:

1. Pennsylvania Power & Light Co.

[Docket No. ER90-298-000]

Take notice that on March 29, 1990, Pennsylvania Power & Light Company tendered for filing its Annual Report showing the development of charges for billings to UGI Corporation for 1989.

Comment date: April 23, 1990, in accordance with Standard Paragraph E at the end of this notice.

2. Pennsylvania Power & Light Co.

[Docket No. ER90-299-000]

Take notice that on April 2, 1990, Pennsylvania Power & Light Company (PP&L) tendered for filing as an initial rate schedule, a Capacity and Energy Sales Agreement (Agreement), between PP&L and GPU Service Corporation, as agent for Jersey Central Power & Light Company and Metropolitan Edison Company (GPU Companies). The Agreement provides for the sale by PP&L to the GPU Companies of a percentage of the energy and generating companies (NUGs), and related transmission service. Companies of Daily Generating Capacity Megawatts solely for the GPU Companies' use in Pennsylvania-New Jersey-Maryland (PJM) Interconnection's planned and actual installed capacity accounting.

PP&L requests waiver of the notice requirements of section 205 of the Federal Power Act and § 35.3 of the Commission's Regulations so that the proposed rate schedule can be made effective as of June 1, 1990. Service under the Agreement is expected to commence on June 1, 1990.

PP&L states a copy of its filing was served on GPU Service Corporation, the Pennsylvania Public Utility Commission, and the New Jersey Board of Public Utilities.

Comment date: April 23, 1990, in accordance with Standard Paragraph E at the end of this notice.

Philadelphia Electric Co.

[Docket No. ER90-302-000]

Take notice that on April 2, 1990, Philadelphia Electric Company (PE) with the concurrence of Atlantic City Electric Company (AE) tendered for filing as an initial rate schedule under section 205 of the Federal Power Act and part 35 of the regulations issued thereunder, an Agreement between PE and AE dated January 16, 1990.

PE states that the Agreement sets forth the terms and conditions for the sale of PE of 200 MW of capacity and associated energy to AE during the four-year period beginning June 1, 1990, and that the charges for such services were negotiated at arms length based on current market conditions and competitive factors, and are mutually advantageous. The rates for capacity are related to PE's system average cost of production and transmission plant. The charge for energy delivered to AE will be PE's monthly average cost of fuel and interchange increased by 25% to cover transmission losses and incremental unit maintenance. PE has requested an effective date of June 1, 1990.

PE states that a copy of this filing has been sent to AE and will be furnished to the Pennsylvania Public Utility Commission and the New Jersey Board of Public Utilities.

Comment date: April 23, 1990, in accordance with Standard Paragraph E at the end of this notice.

4. Kansas Power and Light Co.

[Docket No. ER90-303-000]

Take notice that on April 2, 1990, the Kansas Power and Light Company (KPL) tendered for filing a proposed change in its Federal Energy Regulatory Commission Electric Service Tariff No. 247. The revised Exhibit A sets forth Nominated Capacities for transmission, distribution and dispatch service for the contract year beginning June 1, 1990 and for the four subsequent contract years, pursuant to article IV, § 4.2 and 4.3 of FERC Service Tariff No. 247. The revised Exhibit B sets forth Kansas Electric Power Cooperative's (KEPCo's) most recent load forecast submitted to KPL pursuant to Article III, § 3.1 of FERC Service Tariff No. 247.

Copies of the filing were served upon Kansas Electric Power Cooperative, Inc., and the Kansas Corporation Commission.

Comment date: April 23, 1990, in accordance with Standard Paragraph E end of this notice.

5. Dr. Paul W. Murrill

[Docket No. ID-2452-000]

Take notice that on March 30, 1990, Dr. Paul W. Murrill (Applicant) tendered for filing under section 305(b) of the

Federal Power Act to hold the following positions:

Director, Gulf States Utilities Company
Direcrtor, McKenna & Company

Comment date: April 25, 1990, in accordance with Standard Paragraph E at the end of this notice.

6. Max Lennon

[Docket No. ID–2453–000]

Take notice that on April 4, 1990, Max Lennon (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Director, Duke Power Company
Director, First Union Corporation

Comment date: April 26, 1990, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol 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 this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–8702 Filed 4–13–90; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 9656–002 Idaho]

Marble Creek; Availability of Environment Assessment

April 10, 1990.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for major license for the proposed Marble Creek Hydroelectric Project located on the Marble Creek in Shoshone county, near Wallace, Idaho, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project, with appropriate mitigation measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room HR–A, of the Commission's offices at 825 North Capitol Street, NE, Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 90–8703 Filed 4–13–90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP90–994–000, et al.]

Columbia Gulf Transmission Co., et al.; Natural Gas Certificate Filings

April 9, 1990.

Take notice that the following filings have been made with the Commission:

1. Columbia Gulf Transmission Co.

[Docket No. CP90–994–000]

The "Notice of Request Under Blanket Authorization" issued March 21, 1990, in Docket No. CP90–994–000 is being Re-Noticed to correct the filing date and thereby establish a different 45 day intervention period.

Take notice that on March 29, 1990 [1], Columbia Gulf Transmission Company, (Columbia Gulf), 3850 West Alabama Avenue, Houston, Texas 77027–5225, filed in Docket No. CP90–994–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Delmarva Power and Light Company (Delmarva) under Columbia Gulf's blanket certificate issued in Docket No. CP86–240–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia Gulf states that it would transport on a firm basis up to 10,270 MMBtu equivalent of natural gas per day for Delmarva under a transportation service agreement dated November 1, 1989. Columbia further states that projected average day and annual quantities would be 8,216 and 3,748,550 MMBtu, respectively. Columbia Gulf indicates that it would receive the natural gas at the outlet side of the Rayne, Louisiana compressor station. Columbia Gulf further indicates that it would redeliver the natural gas at an interconnection of the facilities of Columbia Gulf and Columbia Gas Transmission Corporation in the state of Kentucky. It is stated that no facilities would be constructed to provide the service.

Columbia Gulf states that service under § 284.223(a) of the Commission's Regulations (18 CFR 284.223 (a)) commenced on November 1, 1989, as reported in Docket No. ST90–1438–000.

Comment date: May 24, 1990, in accordance with Standard Paragraph G at the end of this notice.

2. Transcontinental Gas Pipe Line Corp.

[Docket No. CP90–1142–000, Docket No. CP90–1143–000]

Take notice that on April 4, 1990, Transcontinental Gas Pipe Line Corporation (Applicant) Post Office Box 1396, Houston, Texas 77251, filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under blanket certificates issued in Docket No. CP88–328–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[2]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by the Applicants and is summarized in the attached appendix.

Applicants state that each of the proposed services would be provided under an executed transportation agreement, and that Applicants would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: May 24, 1990, in accordance with Standard Paragraph G at the end of this notice.

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[1] The request under blanket authorization was tendered for filing March 15, 1990, however, the fee required by § 381.207 of the Commission's Rules (18 CFR 381.207) was not paid until March 29, 1990. Section 381.103 of the Commission's Rules provides that the filing date is the date on which the fee is paid.

[2] These prior notce requests are not consolidated.

APPENDIX

Docket number (date filed)	Shipper name	Peak day [1] avg, annual	Points of		Start-up date (rate schedule)	Related [2] dockets
			Receipt	Delivery		
CP90-1142-000	Union Pacific Resources Co	150,000 20,000 7,300,000	Offshore TX	Offshore TX Onshore LA	2-2-90 (IT)	ST90-2065-000
CP90-1143-000	PSI, Inc	850,000 50,000 18,250,000	MS Onshore LA Offshore TX Offshore LA	MS Onshore LA Offshore TX Offshore LA	2-6-90	ST90-2202-000

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

3. Mississippi River Transmission Corp.

[Docket Nos. CP90-1128-000 [3] CP90-1129-000 CP90-1130-000 CP90-1131-000 CP90-1132-000 CP90-1133-000 CP90-1134-000]

Take notice that on April 3, 1990, Mississippi River Transmission Corporation (MRT), 9900 Clayton Road, St. Louis, Missouri 63124 filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicant and is included in the attached appendix.

The Applicant also states that it would provide the service for each shipper under an executed transportation agreement, and that the applicant would charge rates and abide by the terms and conditions of the referenced transportation rate schedule(s).

Comment date: May 24, 1990, in accordance with Standard Paragraph G at the end of this notice.

APPENDIX

Docket number (date filed)	Shipper name	Peak day [1] avg, annual	Points of		Start-up date (rate schedule)	Related dockets
			Receipt	Delivery		
CP90-1128-000	River Cement Co	3,575 508 185,400	TX LA AR IL	MO	2-1-90 (ITS)	ST90-2155-000
CP90-1129-000	Laclede Steel Co	2,295 2,295 837,675	TX LA AR IL	IL	2-1-90 (FTS)	ST90-2146-000
CP90-1130-000	Big River Zinc Company	3,060 587 214,200	TX LA AR IL	IL	2-4-90 (ITS)	ST90-2145-000
CP90-1131-000	Ralston Purina Company	1,500 692 252,453	TX LA AR IL	MO	2-1-90 (ITS)	ST90-2152-000
CP90-1132-000	Spectrulite Consortium, Inc	460 460 167,900	TX LA AR IL	IL	2-1-90 (FTS)	ST90-2156-000
CP90-1133-000	ASARCO, Inc	2,652 2,652 967,980	TX LA AR IL	MO	2-1-90 (ITS)	ST90-2149-000
CP90-1134-000	Cerro Copper Products Company	734 704 256,960	TX LA AR IL	IL	2-1-90 (FTS)	ST90-2151-000

[1] Quantities are shown in MMBtu unless otherwise indicated.

[3] These prior notice requests are not consolidated.

4. Natural Gas Pipeline Co. of America

[Docket Nos. CP90–1108–000, CP90–1109–000 and CP90–1110–000]

Take notice that on April 3, 1990, Natural Gas Pipeline Company of America (NGPL), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket Nos. CP90–1108–000, CP90–1109–000 and CP90–1110–000 requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport gas on an interruptible basis under NGPL's rate schedule ITS for various shippers under NGPL's blanket certificate issued in Docket No. CP86–582–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

The specific information related to each of the above referenced applications, including the identity of the shipper, volumes, service commencement date, and related docket numbers, has been provided by NGPL and is summarized in the attached appendix to this notice.

Comment date: May 24, 1990, in accordance with Standard Paragraph G at the end of this notice.

APPENDIX

Docket number	Shipper	Volumes-MMBtu (peak, average, annual)	Commence date, ST docket	Receipt point (State)	Delivery point (State)
CP90–1108–000	Rangeline Corp	50,000 20,000 7,300,000	3/1/90 ST90–2261	TX, OffTX, OK, IL, AR, LA, OffLA, KS, NM, IA.	IL, MI, MO, OK, OffLA, NM, TX, OffTx, KS,IA
CP90–1109–000	Triumph Nat. Gas Limited, Partnership.	10,000 5,000 1,825,000	2/16/90 ST90–2177	LA, OffLA	LA, OffLA
CP90–1110–000	Catamount Natural Gas, Inc.	100,000 25,000 9,125,000	2/11/90 ST90–2139	NM, TS, OK, IL, LA CO, AR, KS	IL, LA, OK, TX, MO, IA, NM, CO, KS, NE, AR

5. El Paso Natural Gas Co.

[Docket No. CP90–1034–000]

Take notice that on March 23, 1990, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP90–1034–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon from interstate service and place in stock, a turbine compressor unit located at El Paso's Jal No. 4 Plant in Lea County, New Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

El Paso states that by order issued May 26, 1972 in Docket No. CP72–178, El Paso was authorized to construct and operate one Frame 3 Turbine Compressor, consisting of 11,700 ISO rated horsepower, at its Jal No. 4 plant. El Paso states that now, however, the deliverability of gas supplies attached to the Jal No. 4 Plant have reached a level where the compression facilities at the Jal No. 4 Plant are no longer required by El Paso. El Paso also states that in keeping with its ongoing efforts to optimize system operations, El Paso has identified the Frame 3 Compressor as a potential candidate for use elsewhere on El Paso's system. Additionally, El Paso states that it has entered into an agreement of sale for the remainder of the compression located at the Jal No. 4 Plant.

El Paso states it would abandon no gas supply as a result of the abandonment of the compressor, and that its open-access contractual obligations for transportation service would not be affected by the proposed removal of facilities. Further, El Paso indicates that the removal of the compressor would not impair its ability to render service in the Lea County production area, and that the abandonment would require no changes in El Paso's FERC Gas Tariff and no significant change in the rates that would result therefrom.

Comment date: April 30, 1990, in accordance with Standard Paragraph F at the end of the notice.

6. MIGG, Inc.

[Docket No. CP90–1067–000]

Take notice that on March 29, 1990, MIGC, Inc. (MIGC), Suite 230, 12200 North Pecos Street, Denver, Colorado 80234, filed in Docket No. CP90–1067–000 an application pursuant to section 7(b) of the Natural Gas Act for an order granting permission and approval to abandon natural gas sales services under MIGC's Rate Schedules PL–1 and PL–2, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

MIGC states that Rate Schedule PL–1 consists of a sales agreement between MIGC and Colorado Interstate Gas Company (CIG) dated January 28, 1970, in Docket No. CP70–231, 43 FPC 909 (1970). MIGC further states that the sales agreement between MIGC and CIG expired by its own terms on January 28, 1990. It is indicated that pursuant to the terms of such agreement, CIG (which has not purchased any gas from MIGC since 1987) was required to give MIGC twelve months' advance notice that it intended to terminate the agreement. It is further indicated that CIG gave such notice on March 29, 1989, with termination effective March 31, 1990.

MIGC states that Rate Schedule PL–2 consists of a sales agreement dated February 1, 1970, between MIGC and MGTC, Inc. (MGTC), a Hinshaw pipeline company affiliated with MIGC. MIGC further states that the agreement was certificated by order dated October 19, 1981, in Docket No. CP79–106, 17 FERC ¶62,091 (1981), which order implemented the settlement approved by Initial Decision dated September 9, 1981 at FERC ¶63,045 (1981). It is indicated that the sales agreement between MIGC and MGTC expired by its own terms on February 1, 1990. It is further indicated that pursuant to the terms of such agreement, MGTC (which has chosen to purchase gas from other sources) gave MIGC notice on February 1, 1990, that it intended to terminate the agreement, with termination effective February 28, 1990.

Comment date: April 30, 1990, in accordance with Standard Paragraph F at the end of this notice.

7. MIGC, Inc.

[Docket No. CP90–1073–000]

Take notice than on March 29, 1990, MIGC, Inc. (MIGC), Suite 230, 12200 North Pecos Street, Denver, Colorado 80234, filed in Docket No. CP90–1073–000

an application pursuant to section 7(b) of the Natural Gas Act for an order granting permission and approval to abandon transportation and exchange services under MIGC's Rate Schedules TE–2, TE–3, TE–4 and TE–6, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

MIGC states that Rate Schedule TE–2 consists of a transportation and exchange agreement between MIGC and Panhandle Eastern Pipeline (Panhandle) to enable systemwide exchanges between the two parties of up to 20,000 Mcf per day in the Powder River Basin area of Wyoming. MIGC further states that this service was certificated by order dated November 26, 1982, in Docket No. CP82–103–000, 21 FERC ¶61.196 (1982), and the tariff sheets implementing the certificate were accepted by order dated March 29, 1983, in Docket No. CP82–103–002, 23 FERC ¶61,281(1982). It is indicated that during the seven years that the rate schedule has been in existence, it was used on only one day, and the parties do not expect that it will ever be used again. Consequently, it is stated, MIGC and Panhandle have terminated the agreement by mutual consent.

MIGC states that Rate Schedule TE–3 consists of a transportation and exchange agreement between MIGC and Panhandle to enable party to connect gas obtained in the Powder River Basin area of Wyoming to the other's system, up to 5,000 Mcf per day. MIGC further states that this service was certificated, and the tariff sheets accepted, in the same orders cited above with respect to Rate Schedule TE–2. It is indicated that the parties have determined that essentially the same service can be obtained by either party under NGPA section 311 and consequently, MIGC and Panhandle have terminated the agreement by mutual consent.

MIGC states that Rate Schedule TE–4 consists of a transportation and exchange agreement between MIGC and Williston Basin Interstate Pipeline Company (WBI) to (1) enable MIGC to receive gas which would otherwise be delivered at Recluse, Wyoming, at a point 50 miles south of Recluse, and (2) enable WBI to receive gas available to it at the Kitty processing plant in Gilette, Wyoming into its pipeline at a point 50 miles north of such plant. MIGC further states that this service was certificated by order dated October 19, 1981, in Docket No. CP79–107, 17 FERC ¶62,091 (1981), which order implemented the settlement approved by Initial Decision dated September 9, 1981, 16 FERC ¶63,045 (1981). It is indicated that inasmuch as the circumstances which existed when the certificate was issued no longer exist, MIGC has therefore given WBI written notice of termination, with termination to become effective as of September 28, 1990.

MIGC states that Rate Schedule TE–6 consists of an exchange agreement between MIGC and MGPC, Inc. to enable an exchange of up to 400 Mcf per day of gas volumes in the Oedekoven area of northeastern Wyoming. MIGC further states that this contract was entered into in 1985; subsequently, Western Gas Processors, Ltd. became the successor-in-interest to MGPC's contracts. MIGC indicates that this service was certificated by order dated December 26, 1985 in Docket No. CP85–854–000, 33 FERC ¶62,463. MIGC further indicates that there no longer exists a need for such service and accordingly, the parties have terminated the agreement by mutual consent.

Comment date: April 30, 1990 in accordance with Standard Paragraph F at the end of the notice.

8. Panhandle Eastern Pipe Line Co.

[Docket No. CP90–1105–000]

Take notice than on April 2, 1990, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP90–1105–000 an application pursuant to section 7(b) of the Natural Gas Act for an order granting permission and approval to abandon transportation and exchange services provided to MIGC, Inc. (MICG), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle states that Panhandle and MIGC entered into two transportation and exchange agreements, both of which are dated February 27, 1981. Panhandle further states that Panhandle's Rate Schedule TE–6 and MIGC's Rate Schedule TE–2 covers transportation under the "system-wide" agreement whereas transportation in the Powder River Basin is performed pursuant to Panhandle's Rate Schedule TE–7 and MIGC's Rate Schedule TE–3. It is indicated that Panhandle and MIGC received authority to perform these services in Docket Nos. CP82–65–000 and CP82–103–000 (21 FERC ¶61,196), respectively.

Panhandle states that under the terms of Rate Schedules TE–6, Panhandle will transport gas supplies acquired by the other pipeline in areas other than the Power River Basin up to a maximum daily delivery volume of 20,000 Mcf.

Panhandle states that under the terms of Rate Schedules TE–7, either pipeline will, upon request, connect its facilities to acquired gas supplies for the purpose of transporting and delivering natural gas to the acquiring party up to a maximum daily volume of 5,000 Mcf.

Panhandle indicates that due to the termination/release of its gas purchases in an area remote to its mainline facilities and recent negotiations with MIGC, Panhandle and MIGC have mutually agreed that the services performed pursuant to Panhandle's Rate Schedules TE–6 and TE–7 are no longer required. Panhandle further indicates that MIGC has consented in writing to the abandonment of Rate Schedules TE–6 and TE–7.

Comment date: April 30, 1990, in accordance with Standard Paragraph F at the end of the notice.

Standard Paragraph

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214) and Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time requested herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 90-8704 Filed 4-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP90-1144-000, et al.]

Columbia Gulf Transmission Corp., et al.; Natural Gas Certificate Filings

April 6, 1990.

Take notice that the following filings have been made with the Commission:

1. Columbia Gulf Transmission Corp.

[Docket No. CP90-1144-000]

Take notice that on April 4, 1990, Columbia Gulf Transmission Corporation (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP90-1144-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to provide an interruptible transportation service on behalf of Stellar Gas Company (Stellar), under Columbia Gulf's blanket certificate issued in Docket No. CP86-239-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia Gulf requests authorization to transport, on an interruptible basis, up to a maximum of 60,000 million Btu of natural gas per day for Stellar from specified receipt points located in offshore and onshore Louisiana to specified delivery points located in offshore and onshore Louisiana. Columbia Gulf estimates peak day, average day, and annual volumes of 60,000 million Btu, 10,000 million Btu, and 3,650,000 million Btu, respectively. It is stated that on July 19, 1990, Columbia Gulf initiated a 120-day transportation service for Stellar under § 284.223(a), as reported in Docket No. ST90-2281-000.

Columbia Gulf further states that facilities need be constructed to implement the service. It is stated that the service would continue on a month-to-month basis unless cancelled by either party upon thirty days prior written notice to the other party. Columbia Gulf proposes to charge rates and abide by the terms and conditions of its Rate Schedule ITS-2.

Comment date: May 21, 1990, in accordance with Standard Paragraph G at the end of this notice.

2. Northern Natural Gas Co.

[Docket No. CP90-1075-000]

Take notice that on March 10, 1990, Northern Natural Gas Company, a division of Enron Corp., (Northern), filed in Docket No. CP90-1075-000, a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act, to construct and operate one delivery point under its blanket certificate issued in Docket No. CP82-401, to accommodate gas deliveries for Peoples Natural Gas Company, Division of Utilicorp, Inc. (Peoples), all as more fully set forth in the request on file with the Commission and open to public inspection.

Specifically, Northern proposes to construct and operate a small volume measuring station and appurtenant facilities, including liquids tank, as a delivery point to Peoples in order to accommodate gas sales to serve R.J. Maxwell (Maxwell), an enduser in Haskell County, Kansas. Northern estimates the cost to construct the proposed delivery point to be $2,500 and states that Maxwell's required volumes would be served from the total firm entitlements currently assigned to Rural Tap Sales under Northern's CD-1 Rate Schedule. There will be no firm entitlements assigned to R.J. Maxwell, it is stated.

Comment date: May 21, 1990, in accordance with Standard Paragraph G at the end of this notice.

3. Panhandle Eastern Pipe Line Co.

[Docket Nos. CP90-1099-000 [1], CP90-1100-000, CP90-1101-000, CP90-1102-000, CP90-1103-000, CP90-1104-000

Take notice that on April 2, 1990, Applicant filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicant and is included in the attached appendix.

The Applicant also states that it would provide the service for each shipper under an executed transportation agreement, and that the applicant would charge rates and abide by the terms and conditions of the referenced transportation rate schedule(s).

Comment date: May 21, 1990, in accordance with Standard Paragraph G at the end of this notice.

APPENDIX

Docket number (date filed)	Applicant	Shipper name	Peak day[1] avg, annual	Points of		Start-up date (rate schedule)	Related[2] dockets
				Receipt	Delivery		
CP90-1099-000..... (4-2-90)	Panhandle Eastern Pipe Line Company, P.O. Box 1642, Houston, Texas 77251-1642.	Amgas, Inc	25,000 12,500 4,562,500	CO, IL, KS, MI, OH, OK, TX.	IN	2-7-90 (PT)	CP86-585-000 ST90-2203-000

[1] These prior notice requests are not consolidated.

APPENDIX—Continued

Docket number (date filed)	Applicant	Shipper name	Peak day[1] avg, annual	Points of		Start-up date (rate schedule)	Related[2] dockets
				Receipt	Delivery		
CP90-1100-000..... (4-2-90)	Panhandle Eastern Pipe Line Company.	Panhandle Trading Company.	100,000 50,000 1,825,000	CO, IL, KS, MI, OH, OK, TX.	MI	2-27-90 (PT)	CP86-585-000 ST90-2294-000
CP90-1101-000..... (4-2-90)	Panhandle Eastern Pipe Line Company.	Panhandle Trading Company.	25,000 5,000 1,490,000	CO, IL, KS, MI, OH, OK, TX.	OH	2-1-90 (PT)	CP86-585-000 ST90-2297-000
CP90-1102-000..... (4-2-90)	Panhandle Eastern Pipe Line Company.	Krupp & Associates...	4,000 4,000 1,460,000	CO, IL, KS, MI, OH, OK, TX.	OH	2-1-90 (PT)	CP86-585-000 ST90-2299-000

[1] Quantities are shown in Dekatherms.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

Docket number (date filed)	Applicant	Shipper name	Peak day[3] avg, annual	Points of		Start-up date (rate schedule)	Related[4] dockets
				Receipt	Delivery		
CP90-1103-000..... (4-2-90)	Panhandle Eastern Pipe Line Company.	Manville Sales Corporation.	16,000 9,000 3,285,000	CO, IL, KS, MI, OH, OK, TX.	OH	2-1-90 (PT)	CP86-585-000 ST90-2289-000
CP90-1104-000..... (4-2-90)	Panhandle Eastern Pipe Line Company.	ANR Gathering Company.	100,000 100,000 36,500,000	CO, IL, KS, MI, OH, OK, TX.	IN	2-23-90 (PT)	CP86-585-000 ST90-2296-000

[3] Quantities are shown in Pekatherms.
[4] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

4. Columbia Gas Transmission Corp.

[Docket No. CP90-1107-000]

Take notice that on April 2, 1990, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP90-1107-000, a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act, to transport natural gas under its blanket certificate issued in Docket No. CP86-240, a maximum of 2,345 MMBtu equivalent per day for Cumberland Gas Marketing Company, all as more fully set forth in the request on file with the Commission and open to public inspection.

Columbia indicates that service commenced December 10, 1989, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST90-2176 and estimates the volumes transported to be 2,345 MMBtu on peak day, 1,876 and 855,925 MMBtu on an average day and annual basis, respectively.

Comment date: May 21, 1990, in accordance with Standard Paragraph G at the end of this notice.

5. Southern Natural Gas Co.

[Docket No. CP90-1141-000]

Take notice that on April, 3, 1990, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563 filed in Docket No. CP90-1141-000, a request pursuant to section 7(b) of the Commission's Regulations under the Natural Gas Act, as amended, for authorization to abandon its sales service for the Town of Raleigh, Mississippi (Raleigh).

Specifically, Southern requests approval to abandon the sale of 660 Mcf per day of natural gas for Raleigh, as Raleigh has declined to negotiate for future sales service. Southern does not request to abandon any facilities with the service.

Comment date: April 27, 1990 in accordance with Standard Paragraph F at the end of the notice.

6. CNG Transmission Corp.

[Docket No. CP90-1096-000]

Take notice that on March 30, 1990, Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP90-1096-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain sales service and related standby service to The Peoples Natural Gas Company (Peoples), one of CNG's local distribution company customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CNG proposes to abandon a total of 20,000 dt per day and 5,475,000 dt per year of sales service under CNG's Rate Schedule RQ. CNG states that the above mentioned volumes are to be converted to firm transportation service as part of an overall reduction of 43,400 dt per day and 5,069,120 dt per year of sales service provided by CNG under Rate Schedule RQ pursuant to a service agreement dated April 1, 1989, (agreement) between CNG and Peoples. CNG states that the agreement contains an option for Peoples upon sixty days notice to reduce its combined D-1 and D-2 billing units to 90 per cent of the levels set forth in the agreement. Peoples elected to reduce its billing determinants, to be effective April 1, 1990, and requests that part of the quantities entitled to be reduced be treated as a conversion, it is stated. Therefore, of the 43,400 dt per day and 5,069,120 dt per year that Peoples would be entitled to reduce, only 23,400 dt per day would be actual reductions in billing determinants and related standby services and 20,000 dt per day and 5,475,000 dt per year would be conversion to firm transportation, with no standby service, it is indicated.

CNG states that CNG's contracts do not qualify for the automatic abandonment provisions under § 284.10 of the Commission's Regulations because CNG's contracts were not "eligible firm sales service agreements" within the meaning of the regulations and therefore, CNG must seek specific authorization for the abandonment of its sales obligations for the quantities that Peoples is converting to firm transportation. CNG further states that it should be relieved of any sales obligation as to the converted quantities since Peoples has opted for firm transportation service. CNG proposes

that these reductions be effective April 1, 1990.

Comment date: April 27, 1990, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs:

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 90-8705 Filed 4-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-22-007]

Algonquin Gas Transmission Co.; Notice of Algonquin Gas Transmission Co's., Motion To Place Proposed Rates Into Effect

April 10, 1990.

Take notice that on March 30, 1990, Algonquin Gas Transmission Company (Algonquin) pursuant to section 4(e) of the Natural Gas Act, as amended, moves to place into effect on May 1, 1990 revised tariff sheets as identified on appendix A, to its FERC Gas Tariffs, Second Revised Volume No. 1 and Original Volume No. 2.

Algonquin states that on November 30, 1989, the Commission issued its "Order Accepting for Filing and Suspending Tariff Sheets Subject to Refund and Conditions, Establishing a Hearing" in the above-referenced proceeding. *Algonquin Gas Transmission Company, 49* FERC ¶ *61,264* (1989). By such order the Commission suspended the rates, but permitted them to take effect May 1, 1990 subject to the conditions set forth in the body of the Order and in the ordering paragraphs.

The purpose of the instant filing is to place into effect on May 1, 1990, the rates filed herein on October 30, 1989, as adjusted (10) to reflect Purchased Gas Cost tracking filings subsequent to the October 30, 1989 filings in this docket and (2) to comply with the Commission's November 30 Order.

The Commission's November 30 Order stated that if Algonquin had not received certifications authorizations for the proposed Rate Schedule ACD-1 and ACD-4 prior to the end of the suspension period, "then Algonquin shall file revised rates and tariff sheets eliminating any effect or reference to the ACD-1 and ACD-4 rates." In this regard, Algonquin is filing alternate tariff sheets, as identified on the attached appendix B, to its FERC Gas Tariff, Second Revised Volume No. 1 to reflect the effect of the elimination of ACD-1 and ACD-4 from the as filed rates in RP90-22. The Commission has not acted on Algonquin's filing in CP90-134 as of the date of this filing, if the Commission still has not addressed this issue as of the effective date of the tariff sheets filed herein, then Algonquin requests the tariff sheets listed in appendix B be placed into effect and that the corresponding sheets in appendix A be rendered moot.

Algonquin respectfully requests waiver of any and all other Commission Regulations to the extent necessary to permit the attached revised tariff sheets to become effective May 1, 1989, subject to refund.

Algonquin notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital 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, 385.214). All such motions or protests should be filed on or before April 18, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-8706 Filed 4-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-251-004, TQ90-3-1-001]

Alabama-Tennessee Natural Gas Co.; Proposed Changes in FERC Gas Tariff

April 9, 1990.

Take notice that Alabama-Tennessee Natural Gas Company ("Alabama-Tennessee"), on March 30, 1990, in compliance with various orders issued by the Commission in connection with this proceeding, tendered for filing revisions to its FERC Gas Tariff, First Revised Volume No. 1 ("FERC Gas Tariff"). These revisions relate, in part, to Alabama-Tennessee's motion filed under § 154.67 of the Commission's Regulations to place into effect its proposed rate increase for jurisdictional sales service. In addition, these revisions relate to proposed changes to its PGA clause to reflect a one-part demand charge and a change to the unit-of-sales method of calculating purchased gas costs, and to § 18.1 of the General Terms and Conditions of its FERC Gas Tariff to reflect that Alabama-Tennessee will construct and finance new facilities for sales service

on a non-discriminatory basis. Alabama-Tennessee proposes an effective date of April 1, 1990 for these revised tariff sheets.

Alabama-Tennessee also tendered for filing the following tariff sheet to become effective April 1, 1990: Alternate Twentieth Revised Sheet No. 4.

Alabama-Tennessee states that the purpose for the filing of this tariff sheet is to reflect the rates and charges it is authorized to collect effective April 1, 1990, subject to refund, under the Commission's March 21, 1990 Letter Order issued in Docket No. TQ90–3–1–000, as those rates have been affected by the rate design method contained in its tariff sheets which it has submitted as part of this filing.

Alabama-Tennessee has also tendered for filing its primary tariff sheet containing its one-part demand charge and seasonal rates proposals for transportation service to be effective November 1, 1989 in compliance with the Commission's February 1, 1990 Order Granting Rehearing issued in this proceeding.

Copies of the filing were served upon the company's jurisdictional customers and interested public bodies, and all persons on the Commission's official service list in this proceeding and in Docket No. TQ90–3–1–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before April 15, 1990. 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. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–8707 Filed 4–13–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ90–4–61–000]

Bayou Interstate Pipeline System; Proposed Change in Rates

April 6, 1990.

Take notice that on March 30, 1990, Bayou Interstate Pipeline System (Bayou) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1 (Tariff), Sixteenth Revised Sheet No. 4 to be effective May 1, 1990.

The proposed tariff sheet is filed pursuant to the Purchased Gas Cost Adjustment provisions contained in section 15 of Bayou's tariff. A copy of this filing is being mailed to Bayou's jurisdictional series sales customer and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission (Commission), 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211. All such motions or protests must be filed on or before April 13, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–8708 Filed 4–13–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MT89–6–003]

Caprock Pipeline Co.; Compliance Filing Pursuant to Order No. 497–A

April 10, 1990.

Take notice that on April 6, 1990, Caprock Pipeline Company, tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497–A and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Original Volume No. 3:

Third Revised Sheet Nos. 19, and 19.e through 19.k, Superseding Second Revised Sheet Nos. 19, and 19.6 through 19.k

Second Revised Sheet Nos. 19.a through 19.d, Superseding Revised Sheet Nos. 19.a through 19.d

First Revised Sheet No. 19.1, Superseding Original Sheet No. 19.1

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989). All such protests should be filed on or before April 17, 1990. 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. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–8709 Filed 4–13–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP89–65–002]

The Inland Gas Co., Inc.; Proposed Changes in FERC Gas Tariff

April 9, 1990.

On April 3, 1990, The Inland Gas Company, Inc. ("Inland") tendered for filing with the Commission certain revised tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1 and a revised copy of the settlement agreement approved in this proceeding.

Inland states that the proposed tariff sheets contain revisions to its (i) Fourth Revised Sheet No. 10, effective August 1, 1989, reflecting rates approved by the Commission in its March 19, 1990 order approving the rate settlement in this proceeding, and (ii) Sixth Revised Sheet No. 10, effective December 1, 1989, reflecting the additional take-or-pay surcharge contained on substitute alternate Fifth Revised Sheet No. 10 which was approved by the FERC in a letter order dated March 9, 1990, at RP90–29–002 modified to reflect the settlement base rates in this proceeding. Inland states that the revised settlement agreement filed contains a change to page 9 of the settlement to conform it to the explanatory statement in accordance with the terms of the March 19, 1990 order of the Commission in this proceeding.

Copies of the filing were served upon the company's retail customers, interested State Commissions, and to all parties which previously intervened in this docket.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with the Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before April 16, 1990. 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. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this

filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–8710 Filed 4–13–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP89–61–000 and RP89–146–000]

Kentucky West Virginia Gas Co.; Informal Settlement Conference

April 6, 1990.

Take notice that a conference will be convened in the above-captioned proceeding on April 17, 1990 at 2 a.m. at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC., 20426, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact James Pederson at (202) 357–8570 or Anne King at (202) 357–5646.

Lois D. Cashell,

Secretary.

[FR Doc. 90–8711 Filed 4–13–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TA89–1–37–003, TA90–1–37–002]

Northwest Pipeline Corp.; Proposed Change in FERC Gas Tariff

April 10, 1990.

Take notice that on April 5, 1990, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance the following tariff sheet.

First Revised Volume No. 1

Sixty-Fourth Revised Sheet No. 10

Northwest states that the purpose of this filing is to restate the commodity portion of Northwest's current purchased gas cost adjustment to be effective for the three months commencing April 1, 1990. On January 31, 1990, Northwest filed its annual PGA in Docket No. TA90–1–37–000. In its filing, Northwest overstated the domestic portion of projected quarterly gas costs by $100,000 for the three months commencing April 1, 1990. (The overstatement was the result of a keypunch error on Schedule A–1 sequence No. 104). The required correcting entry reflects a decrease of 5.16 cents per MMBtu rather than the 4.34 cent decrease as previously filed.

Northwest requests waiver of the Commission's regulations to permit an effective date of April 1, 1990. A copy of this filing is being mailed to all jurisdictional customers and affected state commissions.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before April 18, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 90–8712 Filed 4–13–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ST87–1986–001]

ONG Transmission Co.; Request for Approval of Election of Rate Methodology

April 6, 1990.

In the matter of ONG Transmission Company, a Division of ONEOK, Inc., ONG Western, Inc., ONG Red Oak Transmission Company, ONG Sayre Storage Company.

Take notice that on March 30, 1990, ONG Transmission Company, a Division of ONEOK, Inc., ONG Western Inc., ONG Red Oak Transmission Company and ONG Sayre Storage Company (collectively referred to as ONG) filed a request for the Commission to allow it to make the rate election in § 284.123(b)(1) of the Commission's regulations for transportation rendered pursuant to section 311 of the Natural Gas Policy Act of 1978. This section allows an intrastate pipeline to base its rates upon the methodology used "in designing rates to recover the costs of gathering, treatment, processing, transportation, delivery or similar service (including storage service) included in one of its then effective firm sales rate schedules for city-gate service on file with the appropriate state regulatory agency".

ONG states that its rates are filed and approved by the Corporation Commission of Oklahoma (Oklahoma) and that the costs of ONG Transmission as well as the other intrastate transmission companies that are a part of ONEOK, Inc., are rolled in and considered by Oklahoma. ONG has attached to its request, a copy of its Rate Schedule for "Wholesale Gas for Resale Gas Service" and its "Purchased Gas Adjustment Clause" for determining the transportation charge for city-gate service of 53.40 cents per Mcf.

ONG's current rate for section 311 service was determined pursuant to § 284.123(b)(2) of the regulations. On January 28, 1988, the Commission issued an order approving a maximum system-wide transportation rate of 24.32 cents per dekatherm. 42 FERC ¶ 61,108 (1988). The order also required ONG to rejustify the rate on or before March 31, 1990. ONG states that if it is allowed to change its rate election, it does not expect the effective rates in its contracts with transportation customers to exceed the rate previously approved by this Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's rules of practice and procedure. All such motions or protests should be filed within 30 days following publication of this notice in the **Federal Register**. Protests will be considered by the Commission in determining 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. A copy of the request is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–8713 Filed 4–13–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP90–1098–000]

Pennzoil Exploration and Production Co. and Pennzoil Gas Marketing Co. vs. Southern Natural Gas Co.; Notice of Complaint

April 9, 1990.

Take notice that on March 30, 1990, Pennzoil Exploration and Production Company and Pennzoil Gas Marketing Company (Complainants), Post Office Box 2926, Houston, Texas, 77252, filed in

Docket No. CP90–1098–000 pursuant to Rule 206 of the Commission's Rules of Practice and Procedure, a complaint against Southern Natural Gas Company (Southern) concerning Sourthern's alleged discriminatory practice towards competitors who ship gas on Southern's system, all as more fully set forth in the complaint on file with the Commission and open to public inspection.

Specifically, the Complainants state that they experienced an unjustified interruption of transportation on Southern's mainline transmission system that occurred in December 1989. According to the Complainants the circumstances of the service interruption demonstrate that in early December 1989, Southern interrupted the transportation of a competitor's gas to create a demand in its market area for system supply gas. The Complainants state that such interruption occurred at Southern's sole initiative far in advance of the sub-freezing temperatures which occurred later in December, and long before other pipelines imposed system-wide curtailment of interruptible transportation. The Complainants view Southern's conduct as constituting a discriminatory practice in violation of Commission Regulations and Southern's Gas Tariff. For that reason, the Complainants requests that the Commission investigate, pursuant to section 5 of the Natural Gas Act, Southern's operation of its transportation program and impose modifications on Southern's Gas Tariff to prevent discriminatory practices and further abusive market power by Southern.

Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, Southern is to respond within 20 days from the date of this notice.

Any person desiring to be heard or to make a protest with reference to said complaint should on or before May 9, 1990, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Answers to the complaint shall be due on or before May 9, 1990.

Lois D. Cashell,

Secretary.

[FR Doc. 90–8714 Filed 4–13–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ90–40–001]

Raton Gas Transmission Co.; Change in Tariff Filing

April 10, 1990.

Take notice that on March 28, 1990, Raton Gas Transmission Company, (Raton) filed Revised Schedule D–1 and Substitute Seventeenth Revised Sheet No. 4 to its FERC Gas Tariff, Original Volume No. 1.

Raton states that it is filing Revised Schedule D–1 and Substitute Seventeenth Revised Sheet No. 4 of Raton's FERC Tariff to correct the rate adjustment from a decrease of 2¢ per MCF of p–1 Demand to a decrease of 73¢ per MCF.

Raton states that copies of the letter with revised Schedule D–1 and Tariff Sheet No. 4 are being mailed to Raton's two customers and the New Mexico Public Service Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.214, 385.211 (1989). All such protests should be filed on or before April 18, 1990. 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. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–8715 Filed 4–13–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket NO. TM90–6–17–001, TO90–2–17–001]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

April 10, 1990.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on April 6, 1990 tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies of the following tariff sheets:

Proposed To Be Effective November 1, 1989

Fourth Substitute Seventeenth Revised Sheet Nos. 50.1, 50.2, 50.3, and 50.4

Proposed To Be Effective November 15, 1989

Fourth Substitute Eighteenth Revised Sheet Nos. 50.1, 50.2, 50.3, and 50.4

Proposed To Be Effective December 1, 1989

Second Substitute 1st Revised Eighteenth Revised Sheet Nos. 50.1, 50.2, 50.3, and 50.4

Proposed To Be Effective January 1, 1990

Third Substitute Nineteenth Revised Sheet Nos. 50.1, 50.2, 50.3, and 50.4

Proposed To Be Effective February 1, 1990

Third Substitute Twentieth Revised Sheet Nos. 50.1, 50.2, 50.3, and 50.4

Proposed To Be Effective May 1, 1990

Substitute Twenty-first Revised Sheet Nos. 50.1, 50.2, 50.3, and 50.4

Texas Eastern states that these sheets are being filed in compliance with a request of the FERC Staff to conform the sheet numbers with the Commission's requirements.

The propsed effective dates of the above tariff sheets are as stated above.

Copies of the filing were served on Texas Eastern's juridictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before April 18, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspeciton.

Lois D. Cahsell,

Secretary.

[FR Doc. 90–8716 Filed 4–13–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TM90–3–42–000, RP90–49–000, CP88–99–008 and TM90–5–42–000]

Transwestern Pipeline Co.; Informal Technical Conference

April 10, 1990.

Take notice that an informal technical conference will be convened in the above-captioned proceeding on April 26, 1990, at 10:00 a.m. at the offices of the Federal Energy Regulatory Commission,

810 First Street NE., Washington, DC 20426. The conference is being held pursuant to the Commission's order issued herein on December 29, 1989.

Attendance will be limited to parties and the staff.

Lois D. Cashell,

Secretary.

[FR Doc. 90-8717 Filed 4-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA90-1-56-000]

Valero Interstate Transmission Co.; Proposed Changes in FERC Gas Tariff

April 6, 1990.

Take notice that Valero Interstate Transmission Company ("Vitco"), on April 2, 1990 tendered for filing the following tariff sheets as required by Orders 483 and 483-A containing changes in Purchased Gas Cost Rates pursuant to such provisions:

FERC Gas Tariff, Original Volume No. 1

18th Revised Sheet No. 14.2

FERC Gas Tariff, Original Volume No. 2

23rd Revised Sheet No. 6

Vitco states that this filing reflects changes in its purchased gas cost rates pursuant to the requirements of Orders 483 and 483-A.

The change in rates to Rate Schedule S-3 includes an increase in purchased gas cost of $.0035 per MMBtu and a negative surcharge of $2.2713 per MMBtu. The surcharge in Rate Schedule S-3 is designed to eliminate the balance in the deferred purchased gas cost account.

The proposed effective date of the above filing is June 1, 1990. Vitco requests a waiver of any Commission order or regulations which would prohibit implementation by June 1, 1990.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 24, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 90-8718 Filed 4-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-2-002]

Williston Basin Interstate Pipeline Co.; Change in FERC Gas Tariffs

April 10, 1990.

Take notice that on April 2, 1990, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, tendered for filing and moved into effect certain revised tariff sheets to First Revised Volume No. 1, Original Volume No. 1-A, Original Volume No. 1-B and Original Volume No. 2 of its FERC Gas Tariff.

Williston Basin states that these tariff sheets, with supporting workpapers, reflect, *inter alia,* elimination of the so-called VIDA charge that has been paid by K N Energy, pursuant to the Commission's July 11, 1989 and March 8, 1990 Orders in Docket Nos. CP82-487-014, *et al.* and CP82-487-017, *et al.* (Phase II). The tariff sheets also reflect elimination of the so-called 1983 net storage layer pursuant to the Commission's July 31, 1989 and March 27, 1990 Orders in Docket Nos. CP82-487-019, *et al.* (Phases II and III) and "Order Denying Appeal" and "Order Denying Rehearing" issued November 30, 1989 and March 9, 1990, respectively, in Docket Nos. CP82-487-022, *et al.* and incorporate the Company's currently effective purchased gas adjustment (PGA) as filed in Docket No. TQ90-2-49-000, Gas Research Institute (GRI) adjustment as filed in Docket No. TM90-2-000 and proposed PGA filed on March 30, 1990 in Docket No. TQ90-3-49-000.

Copies of the filing were served on Williston Basin's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol 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 April 18, 1990. 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 to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-8719 Filed 4-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER90-181-000]

Wisconsin Power & Light Co.; Filing

April 6, 1990.

Take notice that on March 6, 1990, an amendment was filed in the above referenced docket consisting of a Certificate of Concurrence from South Beloit Water Gas & Electric Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene protest with the Federal Energy Regulatory Commission, 825 North Capitol 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, 385.214). All such motions or protests should be filed on or before April 16, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-8720 Filed 4-13-90; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Proposed Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of proposed implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the proposed procedures for disbursement of $1,187,500, plus accrued interest, obtained by the DOE under the terms of a consent order entered into with Time Oil Company. The DOE has tentatively determined that funds will be distributed in accordance with the terms of that consent order.

DATES AND ADDRESSES: Comments must be filed in duplicate within 30 days of publication of this notice in the Federal Register and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. All comments should display a reference to case number DEF–0129.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Roger Klurfeld, Assistant Director, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–2094 (Mann); 586–2383 (Klurfeld).

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute funds obtained from Time Oil Company (Time). The funds are being held in an interest-bearing escrow account pending distribution by the DOE.

The DOE has tentatively determined to distribute these funds in accordance with the terms of a December 13, 1982 consent order that resolved, with the exclusion of specific exceptions, all civil and administrative disputes regarding Time's compliance with the DOE's price and allocation regulations. As explained in the Proposed Decision and Order, the Time consent order identifies eight entities which are designated to receive restitution. Since this Consent Order was issued before the enactment of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), it is excluded from PODRA's general requirement that such funds be distributed under DOE's subpart V refund regulations. 15 U.S.C. 4501(c)(3). Consequently, under the plan we are proposing, refunds would be distributed to the eight entities identified in the consent order: one direct purchaser and seven states in which Time sold petroleum products during the relevant period.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to provide two copies of their submissions. Comments must be submitted within 30 days of publication of this notice in the Federal Register and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1 p.m. and 5 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue SW., Washington, DC 20585.

Dated: April 5, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of petitioner: Time Oil Company
Date of filing: April 18, 1989
Case number: KEF–0129

On April 18, 1989, the Economic Regulatory Administration (ERA) filed a Petition with the Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) requesting that the OHA formulate and implement procedures, in accordance with the provisions of 10 CFR part 205, subpart V (subpart V), for distributing funds obtained through the settlement of enforcement proceedings brought against Time Oil Company (Time) by the DOE.

I. Background

During the period August 20, 1973 through January 27, 1981, Time was engaged in the refining of crude oil and the sale of refined petroleum products. It was, therefore, a "refiner" as that term is defined in 10 CFR 212.31, and subject to the federal petroleum price and allocation regulations in existence at that time. The ERA conducted audits of Time's compliance with the price and allocation regulations during that period. During and as a result of those audits, disputes arose between Time and the DOE concerning the firm's compliance with the regulations, some of which led to the issuance of a Notice of Probable Violation to Time on February 29, 1980.

In order to avoid protracted and costly litigation, Time and the DOE agreed to enter into a consent order, which became final on December 13, 1982. The consent order resolved, with certain specified exceptions, all civil and administrative disputes regarding Time's compliance with the regulations. Pursuant to the settlement agreement, Time paid the DOE $1,187,500 on December 22, 1982. The settlement agreement funds have been placed in an interest-bearing escrow account maintained by the Department of the Treasury for ultimate distribution by the DOE.

In its Petition for the Implementation of Special Refund Procedures, the ERA states that it was able to identify a claim of the Defense Fuel Supply Center (DFSC), which was the only purchase of jet fuel from Time during the months selected for intense audit. Petition at 2. The consent order therefore provides for the distribution of $325,000 to the DFSC. In addition, the consent order provides that the DOE will distribute the remaining amount to the treasurers of those States within which Time sold covered products during the period November 1973–January 1981. *Id.* Each State's portion of the remaining funds was calculated according to the share of Time's total volume of gasoline sold in that State during the relevant period. The ERA requests that the OHA establish refund procedures pursuant to Subpart V for the distribution of the funds that have been obtained from Time and distribute the Time money in accordance with the express terms of the Consent Order. *Id.* at 3.

II. Proposed Refund Procedures

This refund proceeding is markedly different from the refund proceedings usually the subject of Subpart V refund procedures. As noted above, the consent order at issue here identified the DFSC as injured by the actions of Time and entitled to receive $325,000 to address those injuries. In addition, the consent order identifies seven States as entities that should receive all of the other Time funds as indirect restitution to benefit unidentified persons who were injured by any alleged overcharges. Section 3002(c)(3) of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA) excludes, *inter alia,* from its mandatory Subpart V refund distribution scheme any amount designated in a DOE consent order for disbursement to a person or class of persons, if the consent order was issued before the date of enactment of PODRA (October 21, 1986). 15 U.S.C. 4501. The legislative history of this provision makes clear that the exclusion applies in cases where funds being held by the DOE have been desiganted for disbursement to particular individuals or classes of person, "either as direct or indirect restitution." H.R. Con. Rep. No. 1012, 99th Cong., 2d Sess., *reprinted in* 1986 U.S. Code Cong. & Admin. News 3868, 3878. This "grandfather clause" was designed to allow the courts and the DOE to implement orders for restitution to identified parties that were effective prior to the enactment of PODRA where the funds were designated for specific entities but not yet distributed.

This statutory provision clearly applies to the Time funds. In the Time consent order the ERA identified eight persons or groups of persons who should receive all of the consent order

810 First Street NE., Washington, DC 20426. The conference is being held pursuant to the Commission's order issued herein on December 29, 1989.

Attendance will be limited to parties and the staff.

Lois D. Cashell,

Secretary.

[FR Doc. 90-8717 Filed 4-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA90-1-56-000]

Valero Interstate Transmission Co.; Proposed Changes in FERC Gas Tariff

April 6, 1990.

Take notice that Valero Interstate Transmission Company ("Vitco"), on April 2, 1990 tendered for filing the following tariff sheets as required by Orders 483 and 483-A containing changes in Purchased Gas Cost Rates pursuant to such provisions:

FERC Gas Tariff, Original Volume No. 1

18th Revised Sheet No. 14.2

FERC Gas Tariff, Original Volume No. 2

23rd Revised Sheet No. 6

Vitco states that this filing reflects changes in its purchased gas cost rates pursuant to the requirements of Orders 483 and 483-A.

The change in rates to Rate Schedule S-3 includes an increase in purchased gas cost of $.0035 per MMBtu and a negative surcharge of $2.2713 per MMBtu. The surcharge in Rate Schedule S-3 is designed to eliminate the balance in the deferred purchased gas cost account.

The proposed effective date of the above filing is June 1, 1990. Vitco requests a waiver of any Commission order or regulations which would prohibit implementation by June 1, 1990.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 24, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 90-8718 Filed 4-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-2-002]

Williston Basin Interstate Pipeline Co.; Change in FERC Gas Tariffs

April 10, 1990.

Take notice that on April 2, 1990, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, tendered for filing and moved into effect certain revised tariff sheets to First Revised Volume No. 1, Original Volume No. 1-A, Original Volume No. 1-B and Original Volume No. 2 of its FERC Gas Tariff.

Williston Basin states that these tariff sheets, with supporting workpapers, reflect, *inter alia*, elimination of the so-called VIDA charge that has been paid by K N Energy, pursuant to the Commission's July 11, 1989 and March 8, 1990 Orders in Docket Nos. CP82-487-014, *et al.* and CP82-487-017, *et al.* (Phase II). The tariff sheets also reflect elimination of the so-called 1983 net storage layer pursuant to the Commission's July 31, 1989 and March 27, 1990 Orders in Docket Nos. CP82-487-019, *et al.* (Phases II and III) and "Order Denying Appeal" and "Order Denying Rehearing" issued November 30, 1989 and March 9, 1990, respectively, in Docket Nos. CP82-487-022, *et al.* and incorporate the Company's currently effective purchased gas adjustment (PGA) as filed in Docket No. TQ90-2-49-000, Gas Research Institute (GRI) adjustment as filed in Docket No. TM90-2-000 and proposed PGA filed on March 30, 1990 in Docket No. TQ90-3-49-000.

Copies of the filing were served on Williston Basin's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol 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 April 18, 1990. 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 to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-8719 Filed 4-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER90-181-000]

Wisconsin Power & Light Co.; Filing

April 6, 1990.

Take notice that on March 6, 1990, an amendment was filed in the above referenced docket consisting of a Certificate of Concurrence from South Beloit Water Gas & Electric Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene protest with the Federal Energy Regulatory Commission, 825 North Capitol 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, 385.214). All such motions or protests should be filed on or before April 16, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-8720 Filed 4-13-90; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Proposed Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of proposed implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the proposed procedures for disbursement of $1,187,500, plus accrued interest, obtained by the DOE under the terms of a consent order entered into with Time Oil Company. The DOE has tentatively determined that funds will be distributed in accordance with the terms of that consent order.

DATES AND ADDRESSES: Comments must be filed in duplicate within 30 days of publication of this notice in the Federal Register and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. All comments should display a reference to case number DEF–0129.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Roger Klurfeld, Assistant Director, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–2094 (Mann); 586–2383 (Klurfeld).

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute funds obtained from Time Oil Company (Time). The funds are being held in an interest-bearing escrow account pending distribution by the DOE.

The DOE has tentatively determined to distribute these funds in accordance with the terms of a December 13, 1982 consent order that resolved, with the exclusion of specific exceptions, all civil and administrative disputes regarding Time's compliance with the DOE's price and allocation regulations. As explained in the Proposed Decision and Order, the Time consent order identifies eight entities which are designated to receive restitution. Since this Consent Order was issued before the enactment of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), it is excluded from PODRA's general requirement that such funds be distributed under DOE's subpart V refund regulations. 15 U.S.C. 4501(c)(3). Consequently, under the plan we are proposing, refunds would be distributed to the eight entities identified in the consent order: one direct purchaser and seven states in which Time sold petroleum products during the relevant period.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to provide two copies of their submissions. Comments must be submitted within 30 days of publication of this notice in the Federal Register and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1 p.m. and 5 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue SW., Washington, DC 20585.

Dated: April 5, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of petitioner: Time Oil Company
Date of filing: April 18, 1989
Case number: KEF–0129

On April 18, 1989, the Economic Regulatory Administration (ERA) filed a Petition with the Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) requesting that the OHA formulate and implement procedures, in accordance with the provisions of 10 CFR part 205, subpart V (subpart V), for distributing funds obtained through the settlement of enforcement proceedings brought against Time Oil Company (Time) by the DOE.

I. Background

During the period August 20, 1973 through January 27, 1981, Time was engaged in the refining of crude oil and the sale of refined petroleum products. It was, therefore, a "refiner" as that term is defined in 10 CFR 212.31, and subject to the federal petroleum price and allocation regulations in existence at that time. The ERA conducted audits of Time's compliance with the price and allocation regulations during that period. During and as a result of those audits, disputes arose between Time and the DOE concerning the firm's compliance with the regulations, some of which led to the issuance of a Notice of Probable Violation to Time on February 29, 1980.

In order to avoid protracted and costly litigation, Time and the DOE agreed to enter into a consent order, which became final on December 13, 1982. The consent order resolved, with certain specified exceptions, all civil and administrative disputes regarding Time's compliance with the regulations. Pursuant to the settlement agreement, Time paid the DOE $1,187,500 on December 22, 1982. The settlement agreement funds have been placed in an interest-bearing escrow account maintained by the Department of the Treasury for ultimate distribution by the DOE.

In its Petition for the Implementation of Special Refund Procedures, the ERA states that it was able to identify a claim of the Defense Fuel Supply Center (DFSC), which was the only purchase of jet fuel from Time during the months selected for intense audit. Petition at 2. The consent order therefore provides for the distribution of $325,000 to the DFSC. In addition, the consent order provides that the DOE will distribute the remaining amount to the treasurers of those States within which Time sold covered products during the period November 1973–January 1981. *Id.* Each State's portion of the remaining funds was calculated according to the share of Time's total volume of gasoline sold in that State during the relevant period. The ERA requests that the OHA establish refund procedures pursuant to Subpart V for the distribution of the funds that have been obtained from Time and distribute the Time money in accordance with the express terms of the Consent Order. *Id.* at 3.

II. Proposed Refund Procedures

This refund proceeding is markedly different from the refund proceedings usually the subject of Subpart V refund procedures. As noted above, the consent order at issue here identified the DFSC as injured by the actions of Time and entitled to receive $325,000 to address those injuries. In addition, the consent order identifies seven States as entities that should receive all of the other Time funds as indirect restitution to benefit unidentified persons who were injured by any alleged overcharges. Section 3002(c)(3) of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA) excludes, *inter alia,* from its mandatory Subpart V refund distribution scheme any amount designated in a DOE consent order for disbursement to a person or class of persons, if the consent order was issued before the date of enactment of PODRA (October 21, 1986). 15 U.S.C. 4501. The legislative history of this provision makes clear that the exclusion applies in cases where funds being held by the DOE have been desiganted for disbursement to particular individuals or classes of person, "either as direct or indirect restitution." H.R. Con. Rep. No. 1012, 99th Cong., 2d Sess., *reprinted in* 1986 U.S. Code Cong. & Admin. News 3868, 3878. This "grandfather clause" was designed to allow the courts and the DOE to implement orders for restitution to identified parties that were effective prior to the enactment of PODRA where the funds were designated for specific entities but not yet distributed.

This statutory provision clearly applies to the Time funds. In the Time consent order the ERA identified eight persons or groups of persons who should receive all of the consent order

funds. Seven of these entities—the seven States identified in the consent order—were designated to receive the Time funds for indirect restitution. Since the Time consent order was executed prior to the enactment of PODRA, all of the Time funds fall squarely within this statutory exclusion.

Acordingly, we have determined that the appropriate procedure for distributing the Time escrow funds is the plan described in the consent order: refunding $325,000 to the only identified injured purchaser, Defense Fuel Supply Center, and distributing the remaining $862,500 proportionally to the seven States in which Time sold its petroleum products for indirect restitution. Content Order ¶¶ 403, 404. In the consent order, the DOE allocated the latter sum among the States on the basis of Time's retail sales volumes of gasoline, which comprised the majority of Time's sales of covered petroleum products, in the following amounts: California, $258,491; Hawaii, $10,523; Idaho, $18,716; Montana, $9,315; Nevada, $28,118; Oregon, $115,143; and Washington, $422,194. *Id.*, ¶ 404. To each of these amounts will be added a proportionate share of the interest that has accrued on the consent order funds.

It Is Therefore Ordered That:

The amount remitted to the Department of Energy by Time Oil Company pursuant to Consent Order No. 000S00066Z will be distributed in accordance with the foreging Decision.

[FR Doc. 90–8789 Filed 4–13–90; 8:45 am]

BILLING CODE 6450–01–M

Proposed Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of proposed implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the proposed procedures for disbursement of $92,000, plus accrued interest, in alleged refined petroleum product violation amounts obtained by the DOE under the terms of a consent order entered into with West Coast Oil Co. (West Coast), Case No. KEF–0142. The OHA has tentatively determined that the funds will be distributed to customers who purchased refined petroleum products from West Coast during the period September 1, 1973 through July 1, 1976.

DATE AND ADDRESS: Comments must be filed in duplicate within 30 days of publication of this notice in the **Federal Register**, and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should display a reference to case number KEF–0142.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Roger Klurfeld, Assistant Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–2094 (Mann); 586–2383 (Klurfeld).

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute to eligible claimants $92,000, plus accrued interest, obtained by the DOE under the terms of a consent order entered into with West Coast Oil Co. (West Coast) on June 28, 1989. The funds were paid by West Coast towards the settlement of alleged violations of the DOE price and allocation regulations relating to transactions by West Coast involving the marketing of refined petroleum products during the period September 1, 1973 through July 1, 1976 (the consent order period).

The OHA has tentatively determined to distribute these funds in two stages. In the first stage, we will accept claims from identifiable purchasers of petroleum products from West Coast who may have been injured by the alleged overcharges. The specific requirements which an applicant must meet in order to receive a refund are set out in Section III of the Proposed Decision. Claimants who meet these specific requirements will be eligible to receive refunds based on the number of gallons of refined petroleum products which they purchased from West Coast. Applications for Refund should not be filed at this time. Appropriate public notice will be provided prior to the acceptance of claims. If any funds remain after meritorious claims are paid in the first stage, they may be used for indirect restitution in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), 15 U.S.C. 4501–07.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to provide two copies of their submissions. Comments must be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1 p.m. and 5 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings, and Appeals, located in Room 1E–234, 1000 Independence Avenue SW., Washington, DC 20585.

Date: April 5, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedure

Name of Firm: West Coast Oil Co.
Date of Filing: August 24, 1989
Case Number: KEF–0142

On August 24, 1989, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed with the Office of Hearings and Appeals (OHA) a Petition for the Implementation of Special Refund Procedures to distribute funds received from West Coast Oil Co. (West Coast) under the terms of a consent order between the DOE and West Coast. West Coast remitted a total of $92,000 to the DOE (the consent order fund). An additional $4,497 in interest has accrued on that amount as of February 28, 1990. In accordance with the provisions of the procedural regulations at 10 CFR part 205, subpart V (subpart V), the ERA requests in its Petition that the OHA establish special procedures to make refunds in order to remedy the effects of alleged regulatory violations which were settled by the West Coast consent order. This Proposed Decision and Order sets forth the OHA's plan to distribute these funds.

I. Background

West Coast owned and operated a refinery in which it produced a number of refined petroleum products, primarily heavy fuel oil and diesel fuel during the period of federal price controls. Accordingly, West Coast was a "refiner" as that term is defined in the federal petroleum price and allocations regulations and was, therefore, subject to the refiner price rule set forth in 10 CFR 212, subpart E, and predecessor regulations in 6 CFR 150, subpart L.

During the course of federal price controls, the ERA conducted an audit of West Coast's operations and alleged in several administrative proceedings that West Coast had violated certain applicable DOE price and allocation regulations in its sales of refined petroleum products. On September 26,

1984, the OHA issued a Remedial Order which found that West Coast had violated the DOE price regulations pertaining to resellers and retailers. *West Coast Oil Co.*, 12 DOE ¶ 83,018 (1984). Specifically, the OHA found that West Coast had violated DOE regulations concerning the treatment of proceeds from fee-free import licenses, and non-product cost increases.

Subsequently, settlement discussions were held and on June 28, 1989, the ERA and West Coast entered into a consent order that resolved all regulatory issues pertaining to West Coast's refined petroleum product operations during the period from September 1973 through January 27, 1981 (the consent order period). Pursuant to the consent order, West Coast remitted $92,000 to the DOE for distribution through Subpart V. These funds are being held in an interest-bearing escrow account maintained at the Department of the Treasury pending a determination regarding their proper distribution.

II. Jurisdiction and Authority

The subpart V regulations set forth general guidelines which may be used by the OHA in formulating and implementing a plan of distribution of funds received as a result of an enforcement proceeding. The DOE policy is to use the subpart V process to distribute such funds. For a more detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds, *see Petroleum Overcharge Distribution and Restitution Act of 1986*, 15 U.S.C. 4501 et seq., *Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*).

We have considered the ERA's petition that we implement a subpart V proceeding with respect to the West Coast consent order fund and have determined that such a proceeding is appropriate. This Proposed Decision and Order sets forth the OHA's tentative plan to distribute this fund.

III. Proposed Refund Procedures

We propose to implement a two-stage refund process by which purchasers of West Coast refined products during the consent order period may submit Applications for Refund in this initial stage. From our experience with Subpart V proceedings, we expect that potential applicants generally will fall into the following categories: (i) end-users; (ii) regulated entities, such as public utilities, and cooperatives; and (iii) refiners, resellers and and retailers (hereinafter collectively referred to as "resellers").

A. Claims Based Upon Alleged Overcharges

In order to receive a refund, each claimant will be required to submit a schedule of its monthly purchases of West Coast refined petroleum products during the consent order period. If the product was not purchased directly from West Coast, the claimant must establish that the product originated with West Coast. Additionally, a reseller claimant, except one who chooses to utilize the injury presumptions set forth below, will be required to make a detailed showing that it was injured by West Coast's alleged overcharges. This showing will generally consist of two distinct elements. First, a reseller claimant will be required to show that it had "banks" of unrecouped increased product costs in excess of the refund claimed.[1] Second, because a showing of banked costs alone is not sufficient to establish injury, a claimant must provide evidence that market conditions precluded it from increasing its prices to pass through the additional costs associated with the alleged overcharges. *See Vickers Energy Corp./Hutchens Oil Co.*, 11 DOE ¶ 85,070 at 88,105 (1983). Such a showing could consist of a demonstration that a firm suffered a competitive disadvantage as a result of its purchases from West Coast. *See National Helium Co./ Atlantic Richfield Co.*, 11 DOE ¶ 85,257 (1984), *aff'd sub nom. Atlantic Richfield Co.* v. *DOE*, 618 F. Supp. 1199 (D. Del. 1985).

1. *The Use of Presumptions.* Our experience also indicates that the use of certain presumptions permits claimants to participate in the refund process without incurring inordinate expense and ensures that refund claims are evaluated in the most efficient manner possible. *See, e.g., Marathon Petroleum Co.*, 14 DOE ¶ 85,269 (1986) (*Marathon*). Presumptions in refund cases are specifically authorized by the applicable Subpart V regulations at 10 CFR § 205.282(e). Accordingly, we propose to adopt the presumptions set forth below.

a. *Calculation of Refunds.* First, we will adopt a presumption that the alleged overcharges were dispersed equally in all of West Coast's sales of refined petroleum products during the consent order period. In accordance with this presumption, refunds are made on a pro-rata or volumetric basis. [2] In the absence of better information, a volumetric refund is appropriate because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices.

Under the volumetric approach, a claimant's "allocable share" of the consent order fund is equal to the number of gallons purchased from the consent order firm during the applicable consent order period times the per gallon refund amount. In the present case, the per gallon refund amount is $.0012. We derived this figure by dividing the consent order fund, $92,000, by 77,252,112 gallons, the approximate number of gallons of covered refined products which West Coast sold from September 1, 1973, through the date of decontrol of the relevant product.[3] A firm that establishes its entitlement to a refund will receive all or a portion of its allocable share plus a pro-rata share of the accrued interest.[4]

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[1] Claimants who have previously relied upon their banked costs in order to obtain refunds in other special refund proceedings should subtract those refunds from the cumulative banked costs submitted in this proceeding. *See Husky Oil Co./ Metro Oil Products, Inc.*, 16 DOE ¶ 85,090 at 88,179 (1987). Additionally, a claimant may not receive a refund for any month in which it has a negative cumulative bank (for that product) or for any preceding month. *See Standard Oil (Indiana)/ Suburban Propane Gas Corp.*, 13 DOE ¶ 85,030 at 88,082 (1985). If a claimant no longer has records showing its banked costs, the OHA may use its discretion to allow approximations of those banks prepared by the applicant. *See, e.g., Gulf Oil Corp./ Sturdy Oil Co.*, 15 DOE ¶ 85,187 (1986).

[2] Because we realize that the impact on an individual claimant may have been greater than the volumetric refund amount, we will allow any purchaser to file a refund application based upon a claim that it suffered a disproportionate share of West Coast's alleged overcharges. *See, e.g., Standard Oil (Indiana)/Army and Air Force Exchange Service*, 12 DOE ¶ 85,015 (1984). Such an application will be granted only if an applicant makes a persuasive showing that: (1) it was "overcharged" by a specific amount, (2) it sustained a disproportionate share of West Coast's alleged overcharges, and (3) that it was injured by those overcharges. *See MCO Holding, Inc., MGPC, Inc./ Little America Refining Co.*, 19 DOE ¶ 85,560 (1989); *Marathon Petroleum Co./Red Diamond Oil Co.*, 19 DOE ¶ 85,543 (1989); *(Getty Oil Co./Atchison, Topeka & Santa Fe Railroad Co.*, 18 DOE ¶ 85,107 (1988). To the extent that a claimant makes this showing, it will receive a refund above the volumetric refund level. In computing the appropriate refund amount, we will prorate the alleged overcharge amounts by the ratio of the West Coast consent order amount as compared to the aggregate overcharge amount alleged by the ERA. *Amtel, Inc./Whitco, Inc.*, 19 DOE ¶ 85,319 (1989) (*Amtel/Whitco*).

[3] Although the West Coast consent order period ends January 27, 1981, refund applications may only be based upon purchases of refined products between September 1, 1973 and the day preceding the relevant decontrol date for each product as summarized below:

Road Oil and Asphalt — April 1, 1974.

Residual Fuel — June 1, 1976.

No. 1, No. 2 Heating Oil, and Diesel Fuel — July 1, 1976

[4] As in previous cases, we propose to establish a minimum refund amount of $15. We have found through our experience that the cost of processing claims in which refunds for amounts less than $15 are sought outweighs the benefits of restitution in those instances. *See Exxon Corp.*, 17 DOE ¶ 85,590 at 89,150 (1988) (*Exxon*).

In addition to the volumetric presumption, we also propose to adopt a number of presumptions regarding injury for claimants in each category listed below.

b. *End-Users.* In accordance with prior Subpart V proceedings, we propose to adopt the presumption that an end-user or ultimate consumer of West Coast petroleum products whose business is unrelated to the petroleum industry was injured by the alleged overcharges settled by the consent order. *See, e.g., Texas Oil and Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984) (*TOGCO*). Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and were not required to keep records which justified selling price increases by reference to cost increases. Consequently, anlaysis of the impact of the alleged overcharges on the final prices of goods and services produced by members of this group would be beyond the scope of the refund proceeding. *Id.* We therefore propose that the end-users of West Coast refined petroleum products need only document their purchase volumes from West Coast during the consent order period to make a sufficient showing that they were injured by the alleged overcharges.

c. *Regulated Firms and Cooperatives.* We further propose that, in order to receive a full volumetric refund, a claimant whose prices for goods and services are regulated by a governmental agency, *i.e.* a public utility, or an agricultural cooperative which is required by its charter to pass through cost savings its member purchasers, need only submit documentation of purchases used by itself or, in the case of a cooperative, sold to its members. However, a regulated firm or a cooperative will also be required to certify that it will pass any refund received through to its customers or member-customers, provide us with a full explanation of how it plans to accomplish the restitution, and certify that it will notify the appropriate regulatory body or membership group of the receipt of the refund. *See Marathon*, 14 DOE at 88,514–15. This requirement is based upon the presumption that, with respect to a regulated firm, any overcharges would have been routinely passed through to its customers. Similarly, any refunds received should be passed through to its customers. With respect to a cooperative, in general, the cooperative agreement which controls its business operations would ensure that the alleged overcharges, and similarly refunds, would be passed through to its member-customers. Accordingly, these firms will not be required to make a detailed demonstration of injury.[5]

d. *Refiners, Resellers and Retailers—*

i. *Small Claims Presumption.* We propose to adopt a "small claims" presumption that a firm which resold West Coast products and requests a small refund was injured by the alleged overcharges. Under the small claims presumption, a refiner, reseller or retailer seeking a refund of $5,000 or less, exclusive of interest, will not be required to submit evidence of injury beyond documentation of the volume of West Coast products it purchased during the consent order period. *See TOGCO*, 12 DOE at 88,210. This presumption is based on the fact that there may be considerable expense involved in gathering the types of data necessary to support a detailed claim of injury; for small claims the expense might possibly exceed the potential refund. Consequently, failure to allow simplified refund procedures for small claims could deprive injured parties of their opportunity to obtain a refund. Furthermore, use of the small claims presumption is desirable in that it allows the OHA to process the large number of routine refund claims expected in an efficient manner.[6]

ii. *Mid-Level Claim Presumption.* In addition, a refiner, reseller or retailer claimant whose allocable share of the refund pool exceeds $5,000, excluding interest, may elect to receive as its refund either $5,000 or 40 percent of its allocable share, up to $50,000, whichever is larger.[7] The use of this presumption reflects our conviction that these larger, mid-level claimants were likely to have experienced some injury as a result of the alleged overcharges. *See Marathon*, 14 DOE at 88,515. In some prior special refund proceedings, we have performed detailed analyses in order to determine product-specific levels of injury. *See, e.g., Getty Oil Co.*, 15 DOE ¶ 85,064 (1986). However, in *Gulf Oil Corp.*, 16 DOE ¶ 85,381 at 88,737 (1987), we determined that based upon the available data, it was more accurate and efficient to adopt a single presumptive level of injury of 40 percent for all mid-level claimants, regardless of the refined product that they purchased, based upon the results of our analyses in prior proceedings. We believe that approach generally to be sound, and we therefore propose to adopt a 40 percent presumptive level of injury for all mid-level claimants in this proceeding. Consequently, an applicant in this group will only be required to provide documentation of its purchase volumes of West Coast refined petroleum products during the consent order period in order to be eligible to receive a refund of 40 percent of its total allocable share, up to $50,000, or $5,000, whichever is greater.[8]

iii. *Spot Purchasers.* We propose to adopt a rebuttable presumption that a reseller that made only spot purchases from West Coast did not suffer injury as a result of those purchases. As we have previously stated, spot purchasers generally had considerable discretion as to the timing and market in which they made their purchases, and therefore would not have made spot market purchases from a firm at increased prices unless they were able to pass through the full amount of the firm's selling price to their own customers. *See, e.g., Vickers*, 8 DOE at 85,396–97. Accordingly, a spot purchaser claimant must submit specific and detailed evidence to rebut the spot purchaser presumption and to establish the extent to which it was injured as a result of its spot purchases from West Coast.[9]

B. Allocation Claims

We may also receive claims based upon West Coast's alleged failure to furnish petroleum products that it was obliged to supply under the DOE allocation regulations that became effective in January 1974. *See* 10 CFR part 211. Any such applications will be evaluated with reference to the

[5] A cooperative's purchases of West Coast products which were resold to non-members will be treated in a manner consistent with purchases made by other resellers. *See Total Petroleum, Inc./ Farmers Petroleum Cooperative, Inc.*, 19 DOE ¶ 85,215 (1989).

[6] In order to qualify for a refund under the small claims presumption, a refiner, reseller, or retailer must have purchased less than 4,166,667 gallons of West Coast refined petroleum products during the consent order period.

[7] That is, claimants who purchased more than 4,166,667 gallons of West Coast refined petroleum products during the consent order period (mid-level claimants) may elect to utilize this presumption.

[8] A claimant who attempts to make a detailed showing of injury in order to obtain 100 percent of its allocable share but, instead, provides evidence that leads us to conclude that it passed through all of the alleged overcharges, or that it is eligible for a refund of less than the applicable presumption-level refund may not then be eligible for a presumption-based refund. Instead, such a claimant may receive a refund which reflects the level of injury established in its application. No refund will be approved if its submission indicates that it was not injured as a result of its purchases from West Coast. *See Exxon*, 17 DOE at 89.150 n. 10.

[9] In prior proceedings, we have stated that refunds will be approved for spot purchasers who demonstrate that: (1) they made the spot purchases for the purpose of ensuring a supply for their base period customers rather than in anticipation of financial advantage as a result of those purchases, and (2) they were forced by market conditions to resell the product at a loss.

standards set forth in Subpart V implementation cases such as *Office of Special Counsel*, 10 DOE ¶ 85,048 at 88,220 (1982), and refund application cases such as *Mobil Oil Corp./Reynolds Industries, Inc.*, 17 DOE ¶ 85,608 (1988); *Marathon Petroleum Co./Research Fuels, Inc.*, 19 DOE ¶ 85,575 (1989), *action for review pending*, No. CA3–89–2983G (N.D. Tex. filed Nov. 22, 1989) (*Marathon/RFI*). These standards generally require an allocation claimant to demonstrate the existence of a supplier/purchaser relationship with the consent order firm and the likelihood that the consent order firm failed to furnish petroleum products that it was obliged to supply to the claimant under 10 CFR part 211. In addition, the claimant should provide evidence that it had contemporaneously notified the DOE or otherwise sought redress from the alleged allocation violation. Finally, the claimant must establish that it was injured and document the extent of the injury.

In our evaluation of whether allocation claims meet these standards, we will consider various factors. For example, we will seek to obtain as much information as possible about the agency's treatment of complaints made to it by the claimant. We will also look at any affirmative defenses that West Coast may have had to the alleged allocation violation. *See Marathon/FRI.* In assessing an allocation claimant's injury, we will evaluate the effect of the alleged allocation violation on its entire business operations with particular reference to the amount of product that it received from suppliers other than West Coast. In determining the amount of an allocation refund, we will utilize any information that may be available regarding the portion of the West Coast consent order amount that the agency attributed to allocation violations in general and to the specific allocation violation alleged by the claimants. Finally, since the West Coast consent order reflects a negotiated compromise of the issues involved in the enforcement proceedings against West Coast and the consent order amount is less than West Coast's potential liability in those proceedings, we will pro rate those allocation refunds that would otherwise be disproportionately large in relation to the consent order form. *Cf. Amtel/Whitco.*

C. Distribution of Funds Remaining After First Stage

We propose that any funds that remain after all first stage claims have been decided be distributed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), 15 U.S.C. 4501–07. PODRA requires that the Secretary of Energy determine annually the amount of oil overcharge funds that will not be required to refund monies to injured parties in Subpart V proceedings and make those funds available to state governments for use in four energy conservation programs. The Secretary has delegated these responsibilities to the OHA, and any funds in the West Coast consent order escrow account that the OHA determines will not be needed to effect direct restitution to injured customers will be distributed in accordance with the provisions of PODRA.

It Is Therefore Ordered That:

The payments remitted to the Department of Energy by West Coast Oil CO., pursuant to the consent order finalized on June 28,1989, will be dfistributed in accordance with the foregoing Decision.

Appendix A—West Coast Oil Co. Customer List

Advanced Prod. Service
American Forest Products
Amorient
Apache Oil Scouts
Apex Oil Company
Armstrong Nurseries
Armour Oil Company
B.C. Chemical
Bear Mt. Properties
British Petroleum
Bulldog Trucking Company
Cain Trucking Company
Dept. Water Resources
Carnation Company
Century Oil Management
Corn Construction Co.
Corcoran Const. Co.
Crest Trading. Company
St. of Ca. Dept. of Transp.
Crystal Energy
Davies Oil Company
Jess Douglas Drilling
Energy Production & Sales
Enexco
F.M. Western Oilwell
Tech Oil Company
Fishing Tools Inc.
Count of Fresno
Fabian Oil Co.
Fruit Growers Supply
Fuel Distribution Co.
V.J. Ganduglia
Gasco Gasoline Inc.
Getty Oil Company
Giumarra Vineyards
Golden Bear Oil Co.
Jack Griggs
Golden Gate Petro
Howard Supply Co.
Hitchcock Trans. Co.
Holden Truck Stop
Holland Oil Company
Holland Southwest
Houchin Bros. Cattle
I-Go Van & Storage
Inoy County Rd. Dept.
I.V.E.C.
Jackson Trk. Stop
James Petroleum Co.
Jeffries Bros.
Kachina Petroleum, Inc.
K.V. Energy
Don Keith Trucking
Co. of Kern-Hwys. & Bridges
Lajet Crude Oil of Ca. Inc.
M.P. Oil Company Inc.
McAuley Oil Company
Ken McClanahan & Son
John R. Lawson
Metco Farms
McFarland Energy
Miles Tank Line
Mock Petrochemical Co.
Mohawk Petro Corp.
R.M. Parks
Parton Oil Company
Pauley Trading
Petroleum Transportation
Par Petroleum Company
P.H.D. Corp.
Frank Pozar Co.
Quad Refinery
Rainbow Oil Co.
R.B.J. Transport, Inc.
Refinery Service Co.
Regency Petroleum Corp.
Road Oil Sales Inc.
Sabre Oil Co.
Sabre Transportation Inc.
Sammons Truck Stop
San Joaquin Refining
Santa Fe Energy Prod.
Self Enterprises Inc.
Shell Oil Co.
Simmons Oil Company
Snider Lumber Co.
S & W Construction
Smith Tank Line
Southern Pacific CO.
Sequoia Forest Inc.
Southern Counties
Southern Inyo Hospital
Sierra Forest Products
Sierra Pacific Ind.
Talley Oil Company
Tanner Const. Co.
The Flintkote Co.
Telum Inc.
Tenneco West Inc.
Tenneco Oil Co.
Tesoro Petroleum
Time Oil Co.
County of Tulare
Turner Crane Co.
U.S.A. Petrochem
Union Asphalt Inc.
W.F. Moore & Son
Walt's Truck Stop
West Lake Petroleum
Wicks Forest Industries
Jack Williams Farms
City of Wasco
Western State Brokers
Weyerhaeuser Company

[FR Doc. 90–8790 Filed 4–13–90; 8:45 am]
BILLING CODE 6450–01–M

Implementation of Special Refund Procedures

AGENCY: Office of Hearing and Appeals, Department of Energy.

ACTION: Notice of Proposed Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the proposed procedures to be followed in refunding to adversely affected parties $1,041,715.42, plus accrued interest, that Agway, Inc., has remitted to the DOE pursuant to a Consent Order executed on March 20, 1987. The funds will be distributed in accordance with the DOE's special refund procedures, 10 CFR part 205, subpart V.

DATE AND ADDRESS: Comments must be filed in duplicate within 30 days of publication of this notice in the **Federal Register** and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. All comments should display a conspicuous reference to Case Number KEF–0102.

FOR FURTHER INFORMATION CONTACT: Richart T. Tedrow, Deputy Director, Darlene Gee, Staff Analyst, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–8018 (Tedrow), (202) 586–6602 (Gee).

SUPPLEMENTARY INFORMATION: In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision sets forth the procedures that the DOE was tentatively formulated to distribute monies that have been remitted by Agway, Inc., to the DOE to settle alleged pricing and allocation violations with respect to the firm's sales of crude oil and refined petroleum products. The funds are being held in an interest-bearing escrow accounting pending distribution by the DOE

Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized. Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments must be submitted within 30 days of publication of this notice in the **Federal Register** and should be sent to the address set forth at the beginning of this notice. All comments received will be available for public inspection between the hours of 1 p.m. and 5 p.m., Monday through Friday, except Federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in room 1E–234, 1000 Independence Avenue SW., Washington, DC 20585.

Dated: April 6, 1990.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: Agway, Inc.

Date of Filing: February 12, 1988.

Case Number: KEF–0102.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 CFR part 205, subpart V. On February 12, 1988, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a Consent Order entered into with Agway. Inc., Agway Petroleum Corporation, and Texas City Refining, Inc. (hereinafter collectively referred to as "Agway").

As determined by Interpretation 77–6, [1] Agway, Inc., an agricultural cooperative whose common stock is owned by over 100,000 farmer-members, owned during the period covered by this Consent Order all the capital stock of Agway Petroleum Corporation (APC) which in turn owned two-thirds of the capital stock of Texas City Refining, Inc. (TCR). The remaining one-tird of TCR's capital stock is owned by Southern States Cooperative, Incorporated, an agricultural cooperative. TCR sold 58% of the refined petroleum products it produced to APC, which constituted 86% of APC's requirements.[2] APC then resold these products to member-owners of Agway and others. On the basis of these interrelationships, Interpretation 77–6 found that Agway, APC and TCR constituted a single firm for purposes of the federal petroleum price and allocation regulations.

I. Background

Agway was a "producer," "refiner," and "reseller" of petroleum products as those terms were defined in 10 CFR 212.31. A DOE audit of Agway's records revealed possible violations of the Mandatory Petroleum Price and Allocation Regulations. 10 CFR parts 210, 211 and 212. More specifically, the audit revealed that between January 1, 1973 and January 27, 1981, Agway may have violated the DOE's pricing and allocation regulations with respect to its pricing refining, and sales of crude oil and the pricing and sales of refined petroleum products.

The DOE has taken various administrative enforcement actions against Agway, including the issuance of letters and Notices of Probable Violations. Agway maintained, however, that it has calculated its costs, determined its prices, sold its crude oil and petroleum products, and operated in all other respects in accordance with the federal petroleum price and allocation regulations. However, Agway states that in order to avoid the expense of protracted and complex litigation and the disruption of its orderly business functions, it entered into a Consent Order (No. RTYA00001Z) with the DOE on March 20, 1987. The Consent Order refers to ERA's allegations of overcharges, but does not find that any violations occurred. In addition, the Consent Order states that Agway does not admit any such violations.

The Consent Order requires Agway to pay a total of $1,000,000, plus interest, in three installments within 270 days of the effective date of the Consent Order to the DOE. Agway has deposited a total of $1,041,715.42. This Proposed Decision and Order sets forth the OHA's tentative plan for the distribution of the funds in the Agway escrow account. Comments are solicited.

II. Proposed Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR part 205, subpart V. The subpart V process may be used in situations in which the DOE is unable to identify readily those persons who may have been injured by

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[1] Interpretation 77–6 was issued by the Federal Energy Administration on February 25, 1977, 5 F.E.G. ¶ 56,316, and was upheld in a decision by the Office of Exceptions and Appeals (now the Office of Hearings and Appeals) on August 3, 1977, 6 FEA ¶ 80,532.

[2] *See* Information supplied by Robert Morrow, Attorney for Agway, received on May 31, 1989, Items 1 & 4, and Attachment A.

the alleged regulatory violations or to determine the amount of such injuries. A more detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds is set forth in the cases of *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*).

Because the Consent Order resolves alleged violations involving both sales of crude oil and refined petroleum products, we propose to divide the consent order fund into two pools. *See Shell Oil Co.*, 18 DOE ¶ 85,492 (1989) (*Shell*). The ERA made no recommendation on the distribution of the consent order funds between crude oil issues and refined product issues. We propose to divide the consent order funds proportionately according to the coast issues initially identified by ERA in its Notices of Probable Violation.[3] In other words, we propose that 31 percent of the consent order funds (or $322,931.78 plus accrued interest) be set aside as a pool of crude oil overcharge funds available for disbursement. We further propose that 69 percent of the consent order funds (or $718,783.64 plus accrued interest) be made available for distribution to purchasers of Agway refined petroleum products who were not Agway members or affiliates and who demonstrate that they were injured as a result of Agway's alleged regulatory violations.[4] The specific distribution procedures for those funds are proposed in detail in the following section.

III. Crude Oil Claims

We propose that the funds in the crude oil pool be distributed in accordance with the Modified Statement of Restitutionary Policy (MSRP), which was issued by the DOE on July 28, 1986. 51 FR 27899 (August 4, 1986).[5] The MSRP, which was issued as a result of a court-approved Settlement Agreement in *The Department of Energy Stripper Well Litigation*, M.D.L. 378 (D. Kan. 1986), provides that crude oil overcharge payments will be distributed among the Sates, the United States Treasury, and eligible purchasers of crude oil and refined products.[6] Under the MSRP, up to 20 percent of these crude oil overcharge funds may be reserved to satisfy valid claims by eligible purchasers of crude oil and refined petroleum products. Remaining funds are to be disbursed to the state and federal government for indirect restitution as directed by the MSRP. In the present case, we have decided to reserve the full 20 percent, or $64,586.36 of the initial $322,931.78 crude oil pool, plus a proportionate share of the accrued interest on that amount, for direct refunds to purchasers of crude oil and refined petroleum products who prove that they were injured as a result of alleged crude oil violations.

The process which the OHA will use to evaluate claims based on alleged crude oil violations will be modeled after the process the OHA has used in subpart V proceedings to evaluate claims based upon alleged overcharges involving refined products. *See Mountain Fuel Supply Co.*, 14 DOE ¶ 85,475 (1986).

As in non-crude oil cases, applicants will be required to document their purchase volumes and prove that they were injured as a result of alleged violations (i.e., that they did not pass on the alleged overcharges to their customers). We propose to utilize standards for the showing of injury which OHA has developed for analyzing non-crude oil claims. *See, e.g., Dorchester Gas Corp.*, 14 DOE ¶ 85,240 (1986). These standards include a presumption that end-users (i.e., ultimate consumers) whose businesses are unrelated to the petroleum industry absorbed the increased costs resulting from a consent order firm's alleged overcharges. *See A. Tarricone, Inc.*, 15 DOE ¶ 85,495 at 88,894–896 (1987). However, reseller and retailer claimants must submit detailed evidence of injury, and may not rely upon the presumptions of injury utilized in refund cases involving refined petroleum products. *Id.* They can, however, use econometric evidence of the type employed in the OHA Report in *In Re: The Department of Energy Stripper Well Exemption Litigation*, 6 Fed. Energy Guidelines ¶ 90,507.

Refunds to eligible claimants will be calculated on the basis of a volumetric refund amount derived by dividing the crude oil pool currently available ($322,931.78) by the total consumption of petroleum products in the United States during the period of price controls (2,020,997,335,000 gallons). Based upon the amount of the crude oil pool currently available, the crude oil volumetric refund amount in this proceeding is $0.0000001647 per gallon. This volumetric refund amount will increase as interest accrues on the consent order fund. After all valid claims are paid, unclaimed funds from the 20 percent claims reserve will be divided equally between federal and state governments. The federal government's share of the unclaimed funds will ultimately be deposited into the general fund of the Treasury of the United States.

We propose that the remaining 80 percent of the crude oil pool ($258,345.42) and 80 percent of accumulated interest be disbursed in equal shares to the federal and state governments for indirect restitution. *See Shell.* If this proposal is adopted, we will direct the DOE's Office of the Controller to segregate the crude oil share of Agway's initial payment and distribute $129,172.71, plus appropriate interest, to the States and the same amount to the federal government. Refunds to the States will be in proportion to the consumption of petroleum products in each state during the period of price controls. The share (ratio) of the funds in the account which each state will receive if these procedures are adopted is contained in Exhibit H of the Stripper Well Settlement Agreement. These funds will be subject to the same limitations and reporting requirements as all other crude oil monies received by the States under the Settlement Agreement.

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[3] On January 9, 1981, ERA issued five Notices of Probable Violation (NOPV) to Agway. Three of the NOPVs concerned crude oil and refined product issues as follows: NOPV Case No.: RTYE00101—$33,000,000 in crude oil cost issues alleged; NOPV Case No.: RTYK00101—$54,254,419 in purchased product issues; NOPV Case No.: RTYL01401—$18,783,037 in non-product cost issues.

[4] We have previously held that affiliates or subsidiaries of a consent order firm are not eligible for refunds based upon the presumption that they were not injured. *See, e.g., Marathon Petroleum Co./EMRO Propane Co.*, 15 DOE ¶ 85,288 at 85,528 (1987). This presumption applies to Agway member firms or those otherwise affiliated with Agway during the consent order period, whether or not currently affiliated with the firm. *See Cosby Oil Co./Yucca Valley Liquor Store*, 13 DOE ¶ 85,402 at 88,986 (1986). It also applies to firms that have become affiliated with Agway after the consent order period, because their receipt of a refund would allow the consent order firm to benefit from this proceeding. *See, eg., Marathon Petroleum Co./Webster Service Stations*, 17 DOE ¶ 85,038 (1988). For a partial list of Agway affiliates that we propose to find ineligible under this presumption, see the Appendix to this Proposed Decision and Order.

[5] In the Order implementing the MSRP, the OHA solicited comments regarding the proper application of the MSRP to OHA refund proceedings involving alleged crude oil violations. On April 6, 1987, the OHA issued a notice which analyzes the comments that were submitted and explains the procedures the Office will follow in processing applications filed under subpart V regulations for refunds from the crude oil overcharge funds. 52 FR 11737 (April 10, 1987). Since the procedures apply to all crude oil funds subject to subpart V, we need not differentiate between the various crude oil transactions settled by the Agway consent order.

[6] Under the Settlement Agreement, firms which applied for a portion of certain escrow funds established under the Settlement generally must have signed a waiver releasing their claims to any crude oil funds to be distributed by the OHA under subpart V. Accordingly, those firms will not be eligible for a refund from the Agway crude oil pool. *See supra* note 4.

IV. Refined Product Claims

The remainder of the Agway consent order fund ($718,783.64 plus interest accrued on that amount) shall be made available to eligible injured purchasers of Agway refined products. (*See* note 4.) Purchasers of Agway refined products during the period March 6, 1973 through January 27, 1981 (refund period) [7] may submit Applications for Refund.[8] From our experience with subpart V proceedings, we expect that potential applicants generally will fall into the following categories: (i) end-users; (ii) regulated entities, such as public utilities, and cooperatives; and (iii) refiners, resellers and retailers (hereinafter collectively referred to as "resellers"). Residual funds in the Agway escrow account will be distributed in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986 (PODRA), Pub. L. No. 99–509, title III. *See* 51 FR 43964 (December 5, 1986).

A. Calculation of Refund Amounts

The first step in the refund process is the calculation of an applicant's potential refund. The ERA specifically noted, however, that it was unable to identify all of the customers whom Agway allegedly overcharged. In order to determine the potential refunds for these purchasers, we propose to adopt a presumption that the alleged overcharges were dispersed equally in all of Agway's sales of refined petroleum products during the consent order period. In accordance with this presumption, refunds are made on a pro-rata or volumetric basis. In the absence of better information, a volumetric refund is appropriate because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices.

The volumetric refund presumption is rebuttable. Because we realize that the impact on an individual claimant may have been greater than its potential refund calculated using the volumetric methodology, a claimant may submit evidence detailing the specific alleged overcharge that it incurred in order to be eligible for a larger refund. *See Standard Oil Co. (Indiana)/Army and Air Force Exchange Service*, 12 DOE ¶ 85,015 (1984).

Under the volumetric approach, the potential refund for a previously unidentified claimant will be calculated by multiplying the number of gallons purchased from Agway during the consent order period times a volumetric factor of $0.000574 per gallon. [9] In addition, successful claimants will receive proportionate shares of the interest that has accrued on the Agway escrow account.

As in previous cases, only claims for at least $15 in principal will be processed. This minimum has been adopted in refined product refund proceedings because the cost of processing claims for refunds of less than $15 outweighs the benefits of restitution in those instances. *See, e.g., Mobile Oil Corp.*, 13 DOE ¶ 85,339 (1985); *see also* 10 CFR 205.286(b). If an applicant's potential refund is calculated using the volumetric methodology, it must have purchased at least 26,132 gallons of Agway products in order for its claim to be considered.

B. Determination of Injury

Once a claimant's potential refund has been calculated, we must determine whether the claimant was injured by its purchases from Agway, *i.e.*, whether it was forced to absorb the alleged overcharges. Based on our experience in numerous subpart V proceedings, we will adopt certain presumptions concerning injury in this case. The use of presumptions in refund cases is specifically authorized by DOE procedural regulations. 10 CFR 205.282(e). An applicant that is not covered by one of these presumptions must demonstrate injury in accordance with the non-presumption procedures outlined in the latter part of this Decision.

1. *Injury Presumptions.* The presumptions we will adopt in this case are designed to allow claimants to participate in the refund process without incurring inordinate expense, and to enable OHA to consider the refund applications in the most efficient way possible. We will presume that end-users of Agway products, certain types of regulated firms, and cooperatives were injured by their purchases from Agway. In addition, we will presume that resellers and retailers of Agway products submitting small claims were injured by their purchases. On the other hand, we will presume that resellers and retailers that made spot purchases of Agway products and those who sold it on consignment were not injured by their purchases. Each of these presumptions is discussed below, along with the rationale underlying its use.

a. *End-Users.* First, in accordance with prior subpart V proceedings, we will presume that end-users, *i.e.*, ultimate consumers of Agway products whose businesses are unrelated to the petroleum industry, were injured by the firm's alleged overcharges. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and were not required to keep records which justified selling price increases by reference to cost increases. Consequently, analysis of the impact of the alleged overcharges on the final prices of goods and services produced by members of this group would be beyond the scope of a special refund proceeding. *See Marion Corporation*, 12 DOE ¶ 85,014 (1984) and cases cited therein. Therefore, end-users need only document their purchase volumes of Agway products to demonstrate that they were injured by the alleged overcharges.

b. *Regulated Firms and Cooperatives.* Second, public utilities, agricultural cooperatives, and other firms whose prices are regulated by government agencies or cooperative agreements do not have to submit detailed proof of injury. Such firms would have routinely passed through price increases, including overcharges, to their customers. Likewise, their customers would share the benefits of cost decreases resulting from refunds. *See, e.g., Office of Special Counsel*, 9 DOE ¶ 82,538 (1982) (*Tenneco*); *Office of Special Counsel*, 9 DOE ¶ 82,545 at 85,244 (1982) (*Pennzoil*). Such firms applying for refunds should certify that they will pass through any refund received to their customers and should explain how they will alert the

[7] Agway was not subject to mandatory controls prior to March 6, 1973. Because refunds in this type of case are only warranted for purchase of regulated products, the refund period begins on this date.

[8] OHA will not accept Applications for Refund on behalf of classes of applicants. We have previously determined that such claims are inappropriate because they amount to a proposal for "indirect" restitution, i.e., to distribute the funds attributable to parties not specifically identified by the DOE. *See Standard Oil Co. (Indiana)/Diesel Automotive Association*, 11 DOE ¶ 85,250 (1984); *Office of Special Counsel*, 10 DOE ¶ 85,048 at 88,214 (1982).

[9] We computed the volumetric factor by dividing $718,783.64 (the consent order funds in the refined product pool) by 1,815,181,242 gallons, the approximate number of gallons of covered products other than crude oil which Agway sold from March 6, 1973, the date that Agway became subject to the Federal price controls under Special Rule No. 1 (38 Fed. Reg. 6283) (March 8, 1973). through the date of decontrol of the relevant product.

Although the Agway consent order period begins January 1, 1973, refund applications may only be based upon purchases of refined products between March 6, 1973 and the relevant decontrol date for each product as summarized below: Ethane and Liquid Asphalt, April 1, 1974; Residual Fuel, June 1, 1976; No. 1 and No. 2 Heating Oil, July 1, 1976; Diesel Fuel and Kerosene, July 1, 1976; Naphthas, September 1, 1976; Naphtha Based Jet Fuel, October 1, 1976; Aviation Gas and Kerosene Based Jet Fuel, February 26, 1979; Butane and Natural Gasoline, January 1, 1980; Motor Gasoline and Propane, January 28, 1981.

appropriate regulatory body or membership group to monies received. Purchases by cooperatives that were subsequently resold to nonmembers will generally not be covered by this presumption.

c. *Reseller and Retailer Small Claims.* Third, we will presume that a reseller or retailer seeking a refund of $5,000 or less, excluding accrued interest, was injured by Agway's pricing practices. Without this presumption, such an applicant would have to gather records dating as far back as 1973 in order to demonstrate that it absorbed Agway's alleged overcharges. The cost to the applicant of gathering this information, and to OHA of analyzing it, could exceed the actual refund amount. Therefore, a small claimant must only document the volumes of products it purchased from Agway in order to demonstrate injury. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,210 (1984). Resellers and retailers of Agway products that are seeking refunds in excess of $5,000 must follow the procedures that are outlined below in section 2.

d. *Resellers and Retailers Filing Mid-Level Claims.* Fourth, in lieu of making a detailed showing of injury, a reseller claimant whose allocable share exceeds $5,000 may elect to receive as its refund the larger of $5,000 or 40 percent of its allocable share up to $50,000.[10] The use of this presumption reflects our conviction that these larger claimants were likely to have experienced some injury as a result of the alleged overcharges. *See Marathon*, 14 DOE at 88,515. In some prior special refund proceedings, we have performed detailed economic analysis in order to determine product-specific levels of injury. *See, e.g., Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). However, in *Gulf Oil Corp.*, 16 DOE ¶ 85,381 at 88,737 (1987), we determined that based upon the available data, it was accurate and efficient to adopt a single presumptive level of injury of 40 percent for all medium-range claimants, regardless of the refined product that they purchased, based upon the results of our analyses in prior proceedings. We believe that approach to be sound in the absence of more detailed information regarding injury, and we therefore propose to adopt a 40 percent presumptive level of injury for all medium-range claimants in this proceeding. Consequently, an applicant in this group will only be required to provide documentation of its purchase volumes of Agway refined petroleum products during the consent order period in order to be eligible to receive a refund of 40 percent of its total volumetric share, or $5,000, whichever is greater.

e. *Spot Purchasers.* Fourth, resellers and retailers that were spot purchasers of products from Agway, *i.e.*, made only sporadic, discretionary purchases, are presumed not to have been injured, and consequently, generally will be ineligible for refunds. The basis for this presumption is that a spot purchaser tended to have considerable discretion as to where and when to make a purchase, and therefore, would not have made a purchase unless it was able to recover the full amount of its purchase price, including any alleged overcharges, from its customers. *See Vickers* at 85,396–97. A spot purchaser can rebut this presumption by demonstrating that its base period supply obligation limited its discretion in making the purchases and that it resold the product at a loss that was not subsequently recouped. *See, e.g., Saber Energy, Inc./Mobil Oil Corp.*, 14 DOE ¶ 85,170 (1986).

f. *Consignees.* Finally, we will presume that consignees of Agway products were not injured by the firm's alleged pricing violations. *See, e.g., Jay Oil Co.*, 16 DOE ¶ 85,147 (1987). A consignee agent generally sold products pursuant to an agreement whereby its supplier established the prices to be charged by the consignee and compensated the consignee with a fixed commission based upon the volume of products that it sold. A consignee may rebut the presumption of non-injury by demonstrating that its sales volumes and corresponding commission revenues declined due to the alleged uncompetitiveness of Agway's pricing practices. *See Gulf Oil Corp./C.F. Canter Oil Co.*, 13 DOE ¶ 85,388 at 88,962 (1986).

2. *Non-Presumption Demonstration of Injury.* A reseller or retailer whose allocable share is in excess of $5,000 that does not elect to receive a refund under the small claims presumption will be required to demonstrate its injury. There are two aspects to such a demonstration. First, a firm generally is required to provide a monthly schedule of its banks of unrecouped increased product costs for products that it purchased from Agway. Cost banks should cover the period March 6, 1973, through January 27, 1981.[11] If a firm no longer has records of contemporaneously calculated cost banks for products, it may approximate those banks by submitting the following information regarding its purchases of products from all of its suppliers:

(1) The weighted average gross profit margin that the firm received for products on May 15, 1973;

(2) a monthly schedule of the weighted average gross profit margins that it received for products during the period March 6, 1973 through January 27, 1981; and

(3) a monthly schedule of the firm's purchase or sales volumes of products during the period March 6, 1973 through January 27, 1981.[12]

The existence of banks of unrecouped increased product costs that exceed an applicant's potential refund is only the first part of an injury demonstration. A firm must also show that market conditions forced it to absorb the alleged overcharges. We will infer this to be true if the prices the applicant paid Agway were higher than average market prices for products at the same level of distribution.[13] Accordingly, a claimant attempting to demonstrate injury should submit a monthly schedule of the weighted average prices that it paid Agway for products during the period March 6, 1973 through January 27, 1981.

If a reseller or retailer that is eligible for a refund in excess of $5,000 does not submit the cost bank and purchase price information described above, it can still apply for a refund of $5,000, plus accrued interest, using the small claims presumption.

If, however, a firm provides the above-mentioned data and we subsequently conclude that the firm should receive a refund of less than the $5,000 small claims threshold, the firm cannot opt for a full $5,000 refund.

C. Allocation Claims

We may also receive claims based upon Agway's alleged failure to furnish petroleum products that it was obliged to supply under the DOE allocation regulations that became effective in January 1974. *See* 10 CFR part 211. Any

[10] That is, claimants who purchased between 21,777,003 gallons and 217,770,035 gallons of Agway refined petroleum products during the consent order period (mid-level claimants) may elect to utilize this presumption. Claimants who purchased more than 217,770,035 gallons may elect to limit their claim to $50,000.

[11] We generally require applicants to submit cost banks that continue until and product's price decontrol date. Retailers and resellers of motor gasoline, however, were only required to maintain banks through July 15, 1979, and April 30, 1980, respectively, rather than the January 27, 1981, decontrol date of products.

[12] For motor gasoline, retailers and resellers have to submit the information detailed in parts (2) and (3) only through July 15, 1979 and April 30, 1980, respectively. *See supra* note 11.

[13] We generally obtain average market price information from Platt's Oil Price Handbook and Oilmanac (Platt's). If price data for a particular product is not available in Platt's, the burden of supplying alternative information will be on the claimant.

such applications will be evaluated with reference to the standards set forth in subpart V implementation cases such as *Office of Special Counsel*, 10 DOE ¶ 85,048 at 88,220 (1982), and refund application cases such as *OKC Corp./Town & Country Markets, Inc.*, 12 DOE ¶ 85,094 (1984); *Marathon Petroleum Co./Research Fuels, Inc.*, 19 DOE ¶ 85,575 (1989), *action for review docketed*, C.A.–3–89–2983–G (N.D. Tex. November 22, 1989). These standards generally require an allocation claimant to demonstrate the existence of a supplier/purchaser relationship with the consent order firm and the likelihood that the consent order firm unlawfully failed to furnish petroleum products that it was obliged to supply to the claimant under 10 CFR part 211. In addition, the claimant must provide evidence that it had contemporaneously notified the DOE or otherwise sought redress from the alleged allocation violation. Finally, the claimant must establish that it was injured and document the extent of the injury. Claimants who make a reasonable and non-spurious demonstration of an allocation violation may receive a refund based on the profit lost as a result of their failure to receive the allocated product.[14]

It is therefore ordered, That: The refund amount remitted to the Department of Energy by Agway Petroleum Corporation pursuant to the Consent Order executed on March 20, 1987, will be distributed in accordance with the foregoing decision.

Appendix—Subsidiaries and Affiliates presumptively Ineligible for Refunds

All members of the Agway Cooperative
All members of the Southern States Cooperative
Agway Data Services, Inc.
Agway Financial Corporation
Agway Insurance Co.
Agway Indemnity Insurance Co.
Agway General Agency
Agway Petroleum Corporation
Texas City Refining, Inc.
H.P. Hood Inc.
Telmark, Inc.
Empire Cheese Co., Inc.
Merchants Produce Co., Inc.
Mid-State Potato Distributors
Seedway Inc.
Curtice-Burns Foods, Inc.
Comstock Foods
Comstock Michigan Fruit Division
Nalley's Fine Foods
Lucca Packing Div., Nalley's Fine Foods
National Brands Beverage Div.
National Oats Co.
Snyder Potato Chips
Southern Frozen Foods
Farman's Pickle Company
Smoke Craft
Brooks Foods
Adams Natural Peanut Butter
Blevins Popcorn
Wilderness Foods
Calypso Foods
Tropic Isle
Southern States Financial Corp.
Southern States Underwriters
SSC Insurance Agency Inc.

[FR Doc. 90–8791 Filed 4–13–90; 8:45 am]

BILLING CODE 6450–01–M

[14] If we receive numerous allocation claims, we may adopt a more general formula for calculating refunds based on alleged allocation violations.

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3756–3]

Stratospheric Ozone Advisory Committee

ACTION: Announcement of advisory committee meeting.

SUMMARY: The next meeting of the U.S. Environmental Protection Agency (EPA) Federal Advisory Council on Stratospheric Ozone Protection (STOPAC) will be held on Tuesday, April 24, 1990. The meeting will take place from 9 a.m. to 12 p.m., at the Holiday Inn Capital, 550 C Street SW., Washington, DC. The public is invited to attend. Seating will be limited and will therefore be on a first come, first served basis.

The purpose of the meeting will be to provide an overview of the March 1990 Working Group meeting of the Parties to the Montreal Protocol and the scheduled May and June meetings on issues related to both financial assistance for developing countries and control measures. EPA's actions related to a domestic recycling program will also be discussed.

FOR FURTHER INFORMATION CONTACT: Karla Perri, at (202) 475–7496 or write to the Division of Global Change, Office of Air and Radiation, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Dated: April 9, 1990.

Robert Axelrad,

Acting Director, Office of Atmospheric and Indoor Air Programs.

[FR Doc. 90–8779 Filed 4–13–90; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of February 6–7, 1990

In accordance with § 217.5 of its rules regarding availability of information, there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on February 6–7, 1990.[1] The directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting suggests that economic activity is continuing to expand despite weakness in the industrial sector. Total nonfarm payroll employment increased substantially in January after growing at a reduced pace on average in previous months; a surge in the service-producing sector and a weather-related rebound in construction were only partly offset by a large decline in the manufacturing sector. The civilian unemployment rate was unchanged at 5.3 percent. Partial data suggest that industrial production in January was appreciably below its average in the fourth quarter. Adjusted for inflation, strong gains in consumer spending on services in the fourth quarter offset declines in consumers purchases of goods, especially motor vehicles. Unusually cold weather depressed housing starts appreciably in December, and residential construction in the fourth quarter was little changed from its third-quarter level. Business capital spending, adjusted for inflation, declined in the fourth quarter as a result of lower expenditures on motor vehicles and strike activity in the aircraft industry; spending on other types of capital goods was strong, however, and new orders for equipment picked up toward the end of the year. The nominal U.S. merchandise trade deficit widened in October-November from the third-quarter rate. Consumer prices had risen somewhat more rapidly toward the end of 1989, and prices of food and energy apparently increased substantially further in January. The latest data on labor compensation suggest no significant change in prevailing trends.

Interest rates have risen in intermediate- and long-term debt markets since the Committee meeting on December 18–19; in short-term markets, the federal funds rate has declined, and other short-term rates show mixed changes over the period. In foreign exchange markets, the trade-weighted value of the dollar in terms of the other G–10 currencies declined further over the intermeeting period; most of the depreciation was against the German mark and related European currencies, and there was little change against the yen.

Growth of M2 slowed in January, almost entirely reflecting a drop in transaction deposits. Growth of M3 also slowed in January as assets of thrift institutions and their associated funding needs apparently continued to contract. For the year 1989, M2 expanded at a rate a little below the middle of the Committee's annual range, and M3 grew at a rate slightly below the lower bound of its annual range.

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability, promote growth in output on a sustainable basis, and contribute

[1] Copies of the Record of policy actions of the Committee for the meeting of February 6–7, 1990, are available upon request to The Board of Governors of the Federal Reserve System, Washington, DC 20551.

to an improved pattern of interntional transactions. In furtherance of these objectives, the Committee at this meeting established ranges for growth of M2 and M3 of 3 to 7 percent and 2½ to 6½ percent respectively, measured from the fourth quarter of 1989 to the fourth quarter of 1990. The monitoring range for growth of total domestic non-financial debt was set at 5 to 9 percent for the year. The behavior of the monetary aggregates will continue to be evaluated in the light of progress toward price level stability, movements in their velocities, and developments in the economy and financial markets.

In the implementation of policy for the immediate future, the Committee seeks to maintain the existing degree of pressure on reserve positions. Taking account of progress toward price stability, the strength of the business expansion, the behavior of the monetary aggregates, and developments in foreign exchange and domestic financial markets, slightly greater reserve restraint or slightly lesser reserve restraint would be acceptable in the intermeeting period. The contemplated reserve conditions are expected to be consistent with growth of M2 and M3 over the period from December through March at annual rates of about 7 and 3½ percent respectively. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that reserve conditions during the period before the next meeting are likely to be associated with a Federal funds rate persistently outside a range of 6 to 10 percent.

By order of the Federal Open Market Committee, April 9, 1990.

Normand Bernard,

Assistant Secretary, Federal Open Market Committee.

[FR Doc. 90–8721 Filed 4–13–90; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 90F–0115]

General Foods USA; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that General Foods USA has filed a petition proposing that the food additive regulations be amended to include the use of aspartame in all nonalcoholic beverages where it is not currently permitted.

FOR FURTHER INFORMATION CONTACT: Carl L. Giannetta, Center for Food Safety and Applied Nutrition (HFF–330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that General Foods USA, 250 North St., White Plains, NY 10625, has filed a petition (FAP OA4198) proposing that § 172.804 *Aspartame* (21 CFR 172.804) be amended to include the safe use of aspartame in all nonalcoholic beverages where it is not currently permitted.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: April 5, 1990.

Douglas L. Archer

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90–8735 Filed 4–13–90; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 90F–0116]

Minnesota Mining and Manufacturing Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Minnesota Mining and Manufacturing Co. has filed a petition seeking to amend the food additive regulations to permit the additional use of ammonium bis(*N*-ethyl-2-perfluoroalkylsulfonamido ethyl) phosphates in contact with nonalcoholic foods at high temperatures, including the use in microwave heat susceptor packaging.

FOR FURTHER INFORMATION CONTACT: Edward J. Machuga, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition FAP OB4197 has been filed by Minnesota Mining and Manufacturing Co., 3M Center, St. Paul, MN 55144–1000, proposing that the food additive regulations be amended to permit the additional use of ammonium bis(*N*-ethyl-2-perfluoroalkylsulfonamido ethyl) phosphates in contact with nonalcoholic foods at high temperatures, including the use in microwave heat susceptor packaging.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: April 5, 1990.

Douglas L. Archer,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90–8736 Filed 4–13–90; 8:45 am]

BILLING CODE 4160–01–M

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETINGS: The following advisory committee meetings are announced:

Fertility and Maternal Health Drugs Advisory Committee

Date, time, and place. May 3 and 4, 1990, 9 a.m., Conference rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, May 3, 1990, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 5 p.m.; open committee discussion; May 4, 1990, 9 a.m. to 3 p.m.; Philip A. Corfman, Center for Drug Evaluation and Research (HFD–510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3510.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational human drugs for use in the practice of obstetrics and gynecology.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally in writing, on issues pending before the committee Those desiring to make formal presentations should notify the contact

person before April 18, 1990, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss the bioequivalence of conjugated estrogens.

Dental Products Panel

Date, time, and place. May 17, 1990, 9 a.m., First Floor Conference rm., Piccard Bldg., 1390 Paccard Dr., Rockville, MD.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 4 p.m.; Gregory Singleton, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1180.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation. Reviews and evaluates data concerning the safety and effectiveness of over-the-counter (OTC) drug products for human use and makes appropriate recommendations to the Commissioner of Food and Drugs.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before May 1, 1990, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a premarket approval application for a periodontal test kit.

Gastrointestinal Drugs Advisory Committee

Date, time, and place. May 24 and 25, 1990, 9 a.m., Conference rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, May 24, 1990, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 5 p.m.; open committee discussion, May 25, 1990, 9 a.m. to 5 p.m.; Joan C. Standaert, Center for Drug Evaluation and Research (HFD–180), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4730 or 419–259–6211.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in gastrointestinal diseases.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before May 10, 1990, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On May 24, 1990, the committee will discuss Zofran, ondansetron HC1, new drug application (NDA) 20–007, Glaxo, Inc., to be indicated for the prevention of nausea and vomiting associated with emetogenic cancer chemotherapy, incuding high-dose cis-platin and multi-day cis-platin. On May 25, 1990, the committee will discuss Losec, omeprazole, delayed release capsules, NDA 19–810, Merck and Co., to be indicated for the short-term treatment of poorly responsive active duodenal ulcers.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed commitee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: April 10, 1990

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 90–8737 Filed 4–13–90; 8:45 am]

BILLING CODE 4160–01–M

Public Health Service

Statement of Organization, Functions, and Delegations of Authority; Indian Health Service

Part H, Chapter HG (Indian Health Service) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, Public Health Service (PHS), Chapter HG, Indian Health Service (IHS), 52 FR 47053–67, December 11, 1987, as most recently amended at 55 FR 9367, March 13, 1990, is amended to reflect the establishment of an organizational substructure for the Oklahoma Area Office to more accurately reflect current activities in the Area Office.

Under *Chapter HG, Section HG–20, Functions,* after the statement for the *IHS Area Offices (HGF), Office of Preventive Health Program (HGFD7),* insert the following:

Oklahoma Area Office (HGFK)

Office of the Area Director (HGFK1). (1) Plans, develops and directs the Area Programs within the framework of IHS policy in pursuit of the IHS mission; (2) delivers and ensures the delivery of high quality comprehensive health services; (3) coordinates IHS activities and resources internally and externally with those of other governmental and non-governmental programs; (4) promotes optimum utilization of health care services through management and delivery of services to American Indians and Alaska Natives; (5) ensures the full application of Indian Preference and Equal Employment Opportunity (EEO) principles; and (6) participates with Indian tribes and other Indian community groups in developing optional goals and objectives for health care delivery for the Oklahoma Area.

Office of Administration and Management (HGFK2). (1) Directs, coordinates and evaluates the administrative management services for the Area and field facilities; (2) provide planning, direction and guidance in personal and real property management, acquisition of supplies and materials, office service including transportation, travel, space and communications; (3) provides for a sound financial management program including budget, accounting, payroll, voucher auditing and field consultation functions; (4) participates with Area executive staff and program officials on Area program planning and plans of action; (5) ensures personnel management advisory services including recruitment, placement, position classification, retirement and benefits, and Commissioned Corps processing functions; and (6) participates in the development of Area policy and programs.

Office of Environmental Health and Engineering Services (HGFK3). (1) Provides a broad range of environmental health and engineering services directed at the prevention and reduction of diseases and injuries among the Indian population in the Area; (2) directs, plans, implements, monitors and evaluates environmental health service activities to eliminate or reduce health hazards in homes and communities; (3) directs, plans, and implements, engineering activities to design and construct water, sewer and solid waste systems for Indian homes and communities, provides training and technical assistance for the operation and maintenance of sanitation facilities; (4) administers the management, maintenance and repair of IHS health care facilities; (5) provide biomedical engineering support at the IHS health care facilities in the Area; (6) manages the operation of the administrative activities that include the budget, personnel, acquisition and property within the office; and (7) controls, coordinates and evaluates office administrative policies and procedures.

Office of Program Planning and Evaluation (HGFK4). (1) Coordinates and directs activities for planning, evaluating, data collection and processing, new facility construction and third party reimbursements; (2) analyzes and makes determinations on staffing and budgetary requirements for the health delivery system, coordinates and implements the resource allocation methodologies; (3) provide statistical analysis and interpretation of statistical, health and demographic data through an automated system to managers throughout the Area; (4) designs, develops and implements the operation and maintenance of health information systems for the Area; and (5) participates in the development of Area policy and program directions.

Office of Health Program Services (HGFK5). (1) Provides advice to the Area Director concerning professional health services; (2) provides a wide range of preventive and direct health care services; and (3) oversees the direction and planning for Medicare/Medicaid and Joint Commission on Accreditation of Healthcare Organization accreditation of health care facilities within the Area.

Office of Tribal Development and Operations (HGFK6). (1) Coordinates and implements the Indian Self-Determination and Education Assistance Act, Pub. L. 93–638, for the Area; (2) develops, coordinates and monitors program aspects of tribal contracts and grants; (3) provides liaison with Area Indian tribes and health boards; (4) coordinates the provision of Area technical assistance and consultation; (5) identifies resources required for tribal contracts and grants; (6) identifies and coordinates with programs and resources of other government agencies and organizations applicable to Indian health needs; (7) provides coordination and planning in the development and implementation of tribal health-related programs and services; (8) coordinates and stimulates activities designed to achieve Indian participation in Area health programs; and (9) provides advice and technical assistance to tribal organizations concerning legal requirements involved in grant and contracting applications.

Oklahoma Area Service Units (HGFKA through HDFKD and HGFKG, HGFKJ and HGFKK). Claremore Service Unit (HGFKA); Clinton Service Unit (HGFKB); Haskell Service Unit (HGFKC2); Holton Service Unit (HGFKC3); Lawton Service Unit (HGFKD); Pawnee Service Unit (HGFKD3); Tahlequah Service Unit (HGFKG); Ada Service Unit (HGFKJ); Wewoka Service Unit (HGFKJ4); and Shawnee Service Unit (HGFKK). (1) Plans, develops, and directs health programs within the framework of IHS policy and mission; (2) promotes activities to improve and maintain the health and welfare of the service unit population; (3) delivers quality health services within available resources; (4) coordinates service unit activities and resources with those of other governmental and non-governmental programs; (5) participates in the development and demonstration of alternative means and techniques of health services management and health care delivery; (6) provides Indian tribes and other Indian community groups with optimal means of participating in service unit programs; and (7) encourages and supports the development of individual and tribal entities in the management of the Service Unit.

Under *Section HG–30, Order of Succession,* following item number (7) add: During the absence or disability of the Area Director of the Oklahoma Area Office, or in the event of a vacancy in that office, the first Area Office official listed below who is available shall act as the Area Director, except that during a planned period of absence, the Area Director may specify a different order of

succession. The order of succession will be:

(1) Associate Director, Office of Environmental Health and Engineering Services;

(2) Chief Medical Officer;

(3) Associate Director, Office of Health Program Services;

(4) Associate Director, Office of Program Planning and Evaluation;

(5) Associate Director, Office of Tribal Development and Operations; and

(6) Executive Officer.

Section HG–40 Delegations of Authority. Add the following new paragraph:

All delegations and redelegations of authority made to IHS Area Offices which were in effect immediately prior to this reorganization, and which are consistent with the reorganization of January 18, 1989, shall continue in effect pending further redelegation.

Dated: April 6, 1990.

Everett R. Rhoades,

Assistant Surgeon General, Director.

[FR Doc. 90–8769 Filed 4–13–90; 8:45 am]

BILLING CODE 4160–16–M

Statement of Organization, Functions, and Delegations of Authority; Indian Health Service

Part H, Chapter HG (Indian Health Service) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, Public Health Service (PHS), Chapter HG, Indian Health Service (IHS), 52 FR 47053–67, December 11, 1987, as most recently amended at 55 FR 9367, March 13, 1990, is amended to reflect the realignment of the substructures of the I. California Area Office, II. Nashville Area Office and the III. Portland Area Office to more accurately reflect the current activities in these Area Offices.

Under *Chapter HG, Section HG–10 and HG–20, Organization and Functions,* after the statement for the *Albuquerque Area Service Units (HGFDA–E and HGFDG)* insert the following:

I. *California Area Office (HGFG):* The California Area Office is directed by an Area Director who is responsible to the Director, Indian Health Service. The Area Office consists of the following offices:

Office of the Area Director (HGFG1). (1) Plans, develops, and directs the Area program within the framework of IHS policy in pursuit of the IHS mission; (2) ensures the delivery of high quality comprehensive health services; (3) coordinates IHS activities and resources internally and externally with those of other governmental and nongovernmental programs; (4) promotes optimum utilization of health care services through management and delivery of services to American Indians and Alaska Natives; (5) ensures the full application of the principles of Indian preference and Equal Employment Opportunity; and (6) participates with Indian tribes and other Indian community groups in developing optimal goals and objectives for health care delivery for the California Area Office.

Office of Administration and Management (HGFG2). (1) Plans, directs, coordinates and evaluates management and administrative services for the California Area; (2) provides executive management for the divisions of Resource Management, Acquisition Management, and staff functions consisting of Human Services Development, Property, and Support Services; (3) recommends and develops policies and procedures for various management practices to achieve and carry out Area objectives; (4) distributes policies and general directives from the Deputy Director/Executive Officer to the Area's administrative management services; (5) establishes, maintains, and promotes liaison with community, tribal civic groups, professional organizations, colleges, universities, and other agencies, as appropriate; and (6) provides information on tribal health activities as they relate to program support services.

Office of Health Programs (HGFG3). (1) Plans, implements, directs, coordinates and evaluates Area-wide health and patient care programs; (2) promotes, coordinates, implements and monitors a comprehensive health promotion/disease prevention program and assists tribal programs; (3) plans and coodinates the California Area "piggyback" data collection and appeals or denials of health care payments; (4) maintains and promotes liaison with Indian health boards, professional organizations, colleges and universities, and other government and nongovernmental agencies; (5) monitors the development of all tribal health activities related to Area patient care programs; (6) directs and ensures the effectiveness of the quality assurance program; and (7) assures compliance with Federal regulations.

Office of Tribal Activities (HGFG4). (1) Advises the Area Director on tribal programs and health development activities; (2) assists tribes, communities and/or governing boards in the identification of health services delivery and coordination of resources to promote tribal involvement in health programs; (3) plans, implements, coordinates and evaluates tribal health programs; (4) provides technical assistance to tribes and tribal organization in the development of Pub. L. 93–638 (the Indian Self-Determination and Education Assistance Act) projects and proposals and monitors the progress of contracts and grants; (5) ensures that Indian tribes and tribal organizations are informed regarding pertinent legislative, health policy and program management issues; and (6) provides tribal liaison for Area-wide activities.

Office of Planning, Evaluation, and Information Resources Management (HGFG5). (1) Develops, coordinates and recommends program planning, analysis, and evaluation methodologies for the Area; (2) prepares resource allocation reports; (3) prepares statistical analysis of Area inpatient and outpatient workload; (4) prepares and maintains resource requirement methodology documents; (5) coordinates IHS and tribal programs and health facilities planning; (6) provides advice on Area policies and procedures related to data processing, computer software, computer equipment, telecommunications, and word processing; (7) provides technical assistance on data processing services to all dependent programs of the Area and its Service Units; (8) provides data entry services; (9) assesses specific program and general Area needs for information technology, and recommends or takes appropriate action, such as submitting justification reports and procurement requests; and (10) provides training for Area personnel to improve utilization and understanding of information technologies.

Office of Environmental Health and Engineering (HGFG6). (1) Participates in Area-wide policy formulation, implementation and resource distribution; (2) administers the Area-wide environmental health, sanitation and health care facilities construction and engineering programs; (3) plans, implements, directs, coordinates, assesses and evaluates the Area environmental health and engineering programs; (4) constructs, improves, extends or provides essential sanitation facilities in Indian homes and communities; (5) constructs, maintains and improves Area-wide health facilities; and (6) maintains liaison and coordinates environmental activities with tribes, Area programs, State and local governments, and other outside groups.

Under *Sections HG–10 and HG–20, Organization and Functions,* after the statement for the *California Area Office,*

Environmental Health and Engineering (HGFG6) insert the following:

II. *Nashville Area Office (HGFH).* The Nashville Area Office is directed by an Area Director who is responsible to the Director, Indian Health Service. The Area Office consists of the following offices:

Office of the Area Director (HGFH1). (1) Plans, develops and directs the Area Program within the framework of IHS policy in pursuit of the IHS mission; (2) ensures the delivery of high quality comprehensive health services; (3) coordinates the IHS activities and resources internally and externally with those of other governmental and nongovernmental programs; (4) promotes optimum utilization of health care services through management and delivery of services of American Indians and Alaska Natives; (5) ensures the full application of the principles of Indian preference and Equal Employment Opportunity; and (6) provides Indian tribes and other Indian community groups with optimal ways of participating in Indian health programs including an opportunity to participate in developing the goals and objectives for the Nashville Area Office.

Office of Engineering and Construction (HGFH2). (1) Administers the Area's engineering and construction programs; (2) plans and coordinates the elimination or reduction of health hazards through surveillance, evaluations, education and construction with communities, individuals and other agencies; (3) plans, designs and constructs water, sewer and solid waste systems for Indian communities and provides operational training and technical assistance; (4) develops long-range construction plans for health facilities; (5) assures fluoridated community water systems; (6) conducts surveys of Area health care facilities to ensure accreditation; (7) plans and coordinates facilities construction and maintenance activities of field installations; and (8) provides biomedical engineering services including procurement, installation, modification, in-service training maintenance/testing and calibration of biomedical instrumentation systems and equipment.

Office of Administration and Management (HGFH3). (1) Directs, coordinates and evaluates the Area administrative and management services; (2) provides planning, direction and guidance for personal and real property management, including acquisition of office space, supplies, materiel and appropriate services as needed; (3) provides financial management programs and accounting systems and field consultation functions; (4) provides personnel management services including recruitment, placement, position classification, retirement and benefits, and Commissioned Corps processing functions; and (5) participates in the development of policy.

Office of Health Programs (HGFG4). (1) Serves as the principal advisor to the Area Director for health programs; (2) plans, implements, coordinates, monitors and evaluates environmental health, alcohol and substance abuse, youth treatment, dental health, community health nursing, health records, hospital and clinic nursing and related human services, including mental health and social services; (3) plans, implements, coordinates, and monitors comprehensive health promotion and preventive health programs for the IHS Nashville jurisdiction; (4) carries out comprehensive Area-wide nutrition and diabetic screening, education and control program; (5) develops, implements and evaluates a community injury utilizing a surveillance system; and (6) directs the Area's quality assurance program.

Office of Health System Support (HGFH5). (1) Develops and conducts health service programs through contracts; (2) provides maintenance and statistical analysis of program and demographic data; (3) develops program evaluation methodologies that identify program deficiencies; (4) participates in overall policy and program planning; (5) manages the contract health services program and develops standards and systems to ensure quality medical care; (6) coordinates third party collection, maintenance of eligibility files, submission of claims and receipts, and reconciliation of payments; and (7) develops and manages an analytic statistical reporting system and data base for measuring health status and appraising program activities.

Office of Tribal Activities (HGFH6). (1) Implements and coordinates the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638); (2) develops, coordinates, and monitors tribal contracts and grants; (3) provides liaison, technical assistance and consultation to/with Area Indian tribes and organizations; (4) identifies and coordinates with other government agency and organization resources applicable to Indian health needs; (5) provides coordination and planning in the development and implementation of tribal health related programs and services; (6) coordinates and promotes activities designed to achieve Indian participation in IHS health programs; (7) provides technical assistance and legal advice to tribal organizations on grant and contract applications; (8) manages the IHS Indian Health Care Improvement Act (Pub. L. 94–437) scholarship program; and (9) coordinates technical and administrative support for the Urban Indian health program.

Office of Information Resources Management (HGFH7). (1) Plans, implements, directs and evaluates the Area's information systems; (2) develops, coordinates and maintains records and reports of the Area's information system with respect to policies, procedures, and standards; (3) manages the procurement of hardware, software, and Management Information Systems (MIS) services; (4) provides advice to the Area Director and management staff on MIS costs, feasibility, long-range plans, objectives and strategies; (5) provides technical assistance and evaluation on a wide range of Information Resources Management (IRM) related activities, for training and tribal Pub. L. 93–638 (the Indian Self-Determination and Education Assistance Act); (6) complies with various reporting requirements; (7) provides public relations activities, including collecting and distributing newsworthy information, and technical assistance to IHS staff and tribes in the development of IRM training programs; (8) evaluates training programs; and (9) directs the Area awards program.

Nashville Area Service Units (HGFHA, HGFHB, and HGFHC): Cherokee Service Unit (HGFHA); Choctaw Service Unit (HGFHB)* and Florida Service Unit(HGFHC).*

Cherokee Service Unit (HGFHA). (1) Plans, develops and directs tribal health programs within the framework of IHS policy and mission; (2) promotes activities to improve and maintain the health and welfare of the service population; (3) coordinates service unit activities and resources with those of other governmental and nongovernmental programs; (4) participates in the development and demonstration of alternative means and techniques of health services management and health care delivery; (5) provides the tribe and other Indian community groups with optimal means of participating in service unit program and (6) promotes and supports the development of individual and tribal entities in the management of the service unit.

Under *Sections HG–10 and HG–20, Organization and Functions,* after the statement for the *Nashville Area Office,*

Office of Information Resources Management, insert the following:

(*Contracted to the Tribe under Pub. L. 93–638, The Indian Self-Determination and Education Assistance Act)

III. *Portland Area Office (HFGM):* The Portland Area Office is directed by an Area Director who is responsible to the Director, Indian Health Service. The Area Office consists of the following offices:

Office of the Area Director (HGFM1). (1) Plans, develops and directs the Area Program within the framework of IHS policy in pursuit of the IHS mission; (2) ensures the delivery of high quality comprehensive health services; (3) coordinates the IHS activities and resources internally and externally with those of other governmental and nongovernmental programs; (4) promotes optimum utilization of health care services through management and delivery of services to American Indians and Alaska Natives; (5) ensures the full application of the principles of Indian Preference and Equal Employment Opportunity; and (6) participates with Indian tribes and other Indian community groups in develoing optimal goals and objectives for health care delivery for the Portland Area Office.

Office of Health Programs (HGFM2). (1) Serves as the principal adviser to the Area Director for health programming; (2) plans, implements, monitors and evaluates all IHS health programs and related human services programs including mental health and social services; (3) determines goals and objectives of nutrition and diabetic services programs; (4) provides pharmaceutical advice to staff and maintains drug formulary; (5) plans, implements, coordinates and monitors comprehensive health promotion and preventive health programs for the Portland Area; and (6) ensures a quality assurance program for health care delivery.

Office of Administration and Management (HGFM3). (1) Directs, coordinates, evaluates and administers management services for the Portland Area and field facilities; (2) provides planning, direction and guidance for personal and real property managment, including acquisition of supplies, materiel and services; (3) provides financial management and accounting systems, including budget preparation and monitoring, payroll, and voucher auditing; (4) provides a full range of IHS personnel management services, including recruitment and placement, position classification and description, pay and benefits analyses and administration, and Commissioned Corps processing functions; and (5) participates in the development of Area policy and programs.

Office of Planning, Evaluation, and Information Systems (HGFM4). (1) Provides program planning, analysis and evaluation of health systems and methodologies; (2) determines and analyzes staffing and budgetary requirements for health delivery systems; (3) provides statistical analysis and interpretation of health and demographic data; (4) designs, develops and implements the operation and maintenance of health information systems; (5) identifies and analyzes unmet health needs; (6) advises Area on policies and procedures for data processing, computer software, computer equipment, telecommunications, and word processing; and (7) assesses Area needs for information technology, recommends alternatives, prepares requests and necessary justifications to improve utilization and understanding of information technologies.

Office of Environmental Health and Engineering (HGFM5). (1) Advises Area Director on environmental health, sanitation facilities construction, and facilities management issues; (2) prepares the annual budget for all environmental health and engineering programs; (3) provides environmental health services for the prevention and reduction of disease in the Portland Area; (4) plans the elimination and reduction of health hazards through surveillance, inspections, evaluations, education, and coordination with individuals, communities, tribes, and other State and Federal Agencies; (5) develops, implements,and evaluates a Community Injury Prevention program utilizing a surveillance system; (6) plans, designs, and constructs water, wastewater, and solid waste systems for Indian homes and communities and provides training and technical assistance to achieve their successful operation; (7) provides engineering and facilities management consultant services for the Area; (8) plans and coordinates the constructon of new facilities and the maintenance, repair, and improvement of existing facilities; (9) maintains liaison with Region X (Seattle) Office of Engineering Services; (10) provides biomedical engineering support to service units; (11) develops and implements fire prevention and safety programs; (12) provides contract construction inspection services; (13) plans, implements, and evaluates the Area emergency preparedness procedures; and (14) implements the National Environmental Policy Act program for the Portland Area.

Office of Tribal Operations (HGFM6). (1) Coordinates and implements the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638) programs; (2) develops and monitors program aspects of tribal contracts and grants; (3) provides liaison, technical assistance and consultation with Area Indian tribes and health boards; (4) identifies resources required for tribal contracts and grants; (5) identifies and coordinates the programs and resources of other government agencies and organizations applicable to Indian health needs; (6) provides coordination and planning in the development and implementaton of tribal health related programs and services; (7) coordinates and promotes activities designed to achieve Indian participation in IHS health programs; (8) provides advice and technical assistance to tribal organizations on legal requirements involved in grant and contract applications; (9) coordinates with Community Health Representative program; (10) coordinates alcohol-substance abuse program support services; and (11) coordinates Urban Indian health program support services.

Portland Area Service Units (HGFMA, HGFMB, HGFMC, HGFMD, HGFME, HGFMG, HGFMH, HGFMJ, HGFMK, HGFML, HGFMM, HGFMN, HGFMO). Western Oregon Service Unit (HGFMA); Colville Service Unit (HGFMB); Fort Hall Service Unit (HGFMC); Northern Idaho Service Unit (HGFMD); Warm Springs Service Unit (HGFME); Neah Bay Service Unit (HGFMG); NW Washington Service Unit (HGFMH); Taholah Service Unit (HGFMJ); Umatilla Service Unit (HGFMK); Puget Sound Service Unit (HGFML); Wellpinit Service Unit (HGFMM); Yakima Service Unit (HGFMN); Klamath Service Unit (HGFMO); and Puyallup Service Unit which is under a Pub. L. 93–638 (Indian Self-Determination and Education Assistance Act) contract.

Portland Area Service Units. (1) Plan, develop and direct health programs within the framework of IHS policy and mission; (2) promotes activities to improve and maintain the health and welfare of the service population; (3) delivers quality health services with available resources; (4) coordinates service unit activities and resources with those of other governmental and nongovernmental programs; (5) participates in the development and demonstration of alternative means and techniques of health services management and health care delivery; (6) provides Indian tribes and other Indian community groups with optimal

means of participating in service unit programs; and (7) encourages and supports the development of individual and tribal entities in the management of the service unit.

Under *Section HG–30, Order of Succession,* following item number (6) add: During the absence or disability of the Area Director of the California, Nashville and Portland Area Office, or in the event of a vacancy in that office, the first Area Office official listed below who is available shall act as the Area Director, except that during a planned period of absence, the Area Director may specify a different order of succession. The order of succession will be:

California Area

(1) Deputy Director;
(2) Associate Director, Office of Tribal Activities;
(3) Associate Director, Office of Environmental Health and Engineering;
(4) Associate Director, Office of Administration and Management; and
(5) Associate Director, Office of Planning, Evaluation and Information Services.

Nashville Area

(1) Deputy Director;
(2) Executive Officer;
(3) Associate Director, Office of Engineering and Construction;
(4) Associate Director, Office of Health Systems Support;
(5) Associate Director, Office of Tribal Activities; and
(6) Associate Director, Office of Information Resources Management;

Portland Area

(1) Deputy Director;
(2) Director, Area Office Operations;
(3) Associate Director, Office of Administration and Management;
(4) Associate Director, Office of Tribal Operations;
(5) Associate Director, Office of Planning, Evaluation and Information Systems;
(6) Associate Director, Office of Health Programs; and
(7) Associate Director, Office of Environmental Health and Engineering.

Section HG–40 Delegations of Authority. Add the following new paragraph:

All delegations and redelegations of authority made to IHS Area Offices which were in effect immediately prior to this reorganization, and which are consistent with the reorganization of January 18, 1989, shall continue in effect pending further redelegation.

Dated: April 6, 1990.

Everett R. Rhoades,

Assistant Surgeon General Director.

[FR Doc. 90–8770 Filed 4–13–90; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N–90–3059]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

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 description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) 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, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: April 9, 1990.

John T. Murphy,

Director, Information Policy and Management Division.

Proposal: Final Rule—Community Development Block Grants; Displacement, Relocation, Acquisition, and Replacement of Housing, FR–2474.

Office: Community Planning and Development.

Description of the need for the information and its proposed use: This rule establishes consistent policies and requirements for displacement, relocation, acquisition, and replacement of housing as applicable to the Community Development Block Grant Programs (Entitlement, HUD Small Cities, and State Administered) and the Urban Development Action Grants Program. It primarily implements section 509 of the Housing and Community Development Act 1987, which adds new requirements at section 104(d) of the Housing and Community Development Act of 1974, as amended.

Form number: None.

Respondents: State or Local Governments.

Frequency of submission: On Occasion.

Reporting burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Reporting	50		1		40		2,000
Recordkeeping	1,200		1		10.5		12,600

Total estimated burden hours: 14,600.
Status: Reinstatement.
Contact: Harold J. Huecker, HUD, (202) 755–6336; John Allison, OMB, (202) 395–6880.

Dated: April 9, 1990.

[FR Doc. 90–8767 Filed 4–13–90; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–930–00–4212–13; MTM 78139]

Conveyance and Order Providing for Opening of Public Land in Stillwater County; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This order will open lands reconveyed to the United States in an exchange under the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 et seq (FLPMA), to the operation of the public land laws. No minerals were acquired in the exchange. It also informs the public and interested state and local governmental officials of the completion of the exchange.

The land that was acquired in the exchange is excellent recreational land with hunting, camping, and environmental education opportunities, and encompasses the Bad Canyon area, which is located north of the Stillwater River approximately 15 miles southwest of Absarokee, Montana. In exchange for the offered land, the Bureau transferred eight isolated parcels of public land in four separate counties (Stillwater, Sweet Grass, Wheatland, and Yellowstone Counties). The public interest was well served through completion of this exchange.

EFFECTIVE DATE: June 6, 1990.

FOR FURTHER INFORMATION CONTACT: James Binando, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–255–2935.

SUPPLEMENTARY INFORMATION:

1. Notice is hereby given that pursuant to section 206 of FLPMA, the following described lands were transferred to the parties shown:

Principal Meridian, Montana

Rawhide Ranch

T. 1 S., R. 23 E.,
Sec. 14, NE¼NE¼, S½NE¼, SE¼NW¼, SE¼SW¼, SE¼.
Containing 360 acres.

Charles and Pamela Rein

T. 5 N., R. 12 E.,
Sec. 28, NE¼.
Containing 160 acres.

James E. Edwards

T. 5 S., R. 18 E.,
Sec. 7, SE¼NE¼.
Containing 40 acres.

William and Joan Langford

T. 2 S., R. 15 E.,
Sec. 5, lot 4.
Containing 53.81 acres.

Careless Creek Ranch, Inc.

T. 9 N., R. 18 E.,
Sec. 22, NW¼;
Sec. 26, W½W½, SE¼NW¼, NE¼SW¼.
Containing 400 acres.

Edward and Judy Lode

T. 10 N., R. 14 E.,
Sec. 22 N½NW¼.
Containing 80 acres.

Sandra Lode Whitney

T. 10 N., R. 14 E.,
Sec. 26, N½NE¼, SE½NE¼.
Containing 120 acres.

Gerald or Oleafa Kirch

T. 5 S., R. 16 E.,
Sec. 10, SW¼NW¼.
Containing 40 acres.
Total acreage of public land transferred: 1,253.81 acres.

2. In exchange for the above-selected land, the United States acquired the following described surface estate from The Nature Conservancy:

Principal Meridian, Montana

T. 4 S., R. 16 E.,
Sec. 11, S½;
Sec. 14, N½NE¼, SE¼NE¼, N½SW¼NE¼, N½S½SW¼NE¼.
Containing 470 acres, more or less.

3. The values of the federal public land were appraised at $82,250 and the values of the private land were appraised at $81,920. The $330 difference will be applied to the BLM–TNC running account as per the exchange agreement dated June 30, 1989.

4. At 9 a.m. on June 6, 1990, the lands described in paragraph 2 above that were conveyed to the United States will be opened to the operation of the public land laws generally, subject to valid existing rights and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on June 6, 1990, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: April 6, 1990.

John A. Kwiatkowski,

Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 90–8772 Filed 4–13–90; 8:45 am]

BILLING CODE 4310–DN–M

[MT–930–00–4214–11; MTM 938, MTM 40969]

Reversion of Lands to the Department of the Interior Under the Provisions of the Act of Congress Dated April 15, 1924, and Opening of Public Lands; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This order restores 35 acres of public lands to operation of the public land and mining laws. The lands have been and remain open to mineral leasing. The lands affected reverted to the Department of the Interior under the provisions of the Act of Congress dated April 15, 1924.

EFFECTIVE DATE: May 16, 1990.

FOR FURTHER INFORMATION CONTACT: James Binando, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–255–2935.

SUPPLEMENTARY INFORMATION: The Act of Congress dated April 15, 1924, transferred the Fort Keogh Military Reservation from the Department of the Interior to the Department of Agriculture for use by that department for experiments in stock raising and growing of forage crops. The Act provided that if the lands were no longer used or needed for the purposes for which they were transferred that the lands would revert to and become subject to the control and jurisdiction of the Department of the Interior. Under the reversionary provisions of this Act, the following-described lands were returned to the Department of the Interior:.

Principal Meridian

(MTM 938)

T. 7–8 N., R. 47 E.,
Sec. 4 and 5, Tracts O and W.

(MTM 40969)

T. 8 N., R. 47 E.,
Sec. 32, railroad right-of-way between lots 14 and 15;
Sec. 33, railroad right-of-way between lots 12 and 13.

The areas described aggregate 35 acres in Custer County.

At 9 a.m. on May 16, 1990, the lands will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law.

At 9 a.m. on May 16, 1990, the lands will be opened to location and entry under the United States mining laws. Appropriation of any of the lands described in this order under the general

mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by state law where not in conflict with federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: April 6, 1990.

John A. Kwiatkowski,

Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 90-8771 Filed 4-13-90; 8:45 am]

BILLING CODE 4310-DN-M

[MT-930-00-4214-10; SDM 76798]

Partial Termination of Proposed Withdrawal and Termination of Segregation; South Dakota

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates the segregative effect of proposed withdrawal SDM 76798 on 3,182.23 acres of National Forest System (NFS) lands adjacent to Jewel Cave National Monument. The U.S. Department of Agriculture has canceled its application for withdrawal of those lands. This notice also terminates the 2-year segregative effect on the remaining 2,387.22 acres of NFS land in the application. Except those areas withdrawn by PLO 2965, the lands will be opened to mining and such other forms of disposition as may by law be made of NFS lands. The lands have been and remain open to mineral leasing.

DATES: The segregation on lands listed in paragraph 1 will terminate on publication of this notice. The segregation on lands listed in paragraph 2 will terminate on May 19, 1990, or on publication of an order allowing the withdrawal, whichever is sooner.

FOR FURTHER INFORMATION CONTACT: James Binando, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406-255-2935.

SUPPLEMENTARY INFORMATION: Notice of proposed withdrawal concerning U.S. Department of Agriculture, Forest Service, application SDM 76798, was published in the **Federal Register** on May 19, 1988 (53 FR 17984).

1. The Forest Service has canceled a portion of its application. Pursuant to 43 CFR 2310.2-1(c), the proposed withdrawal is hereby terminated insofar as it affects the following described land:

Black Hills Meridian

Black Hills National Forest

Jewel Cave Extension

T. 3 S., R. 2 E.,
Sec. 34, N½S½;
Sec. 35 S½.
T. 4 S., R. 2 E.,
Sec. 2, lots 1 and 2, SE¼NE¼, and those portions of lot 3 and SW¼NE¼ east of U.S. Highway 16;
Sec. 10, S½;
Sec. 11, S½;
Sec. 12, N½N½ and S½.
T. 3 S., R. 3 E.,
Sec. 20, N½;
Sec. 31, lots 3 and 4, E½SW¼, and SE¼.
T. 4 S., R. 3 E.,
Sec. 6, lots 1 to 5, inclusive, SE¼NW¼, SE½NE¼, and E½SE¼;
Sec. 7, lots 3 and 4, E½NE¼, E½SW¼, and SE¼.

The area described aggregates 3,182.23 acres, more or less, in Custer County.

2. Pursuant to 43 CFR 2310.2-1(d), the segregative effect on the following described lands will terminate on or before May 19, 1990:

Black Hills Meridian

Black Hills National Forest

Jewel Cave Extension

T. 3 S., R. 2 E.,
Sec. 34, S½S½.
T. 4 S., R. 2 E.,
Sec. 2, lot 4, SW¼NW¼, SW¼ excluding that portion of the NE¼NE¼SW¼ east of U.S. Highway 16, and those portions of lot 3, SW¼NE¼ and SE¼NW¼ west of U.S. Highway 16;
Sec. 3, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 10, N½;
Sec. 11, N½;
Sec. 12, S½N½.
T. 4 S., R. 3 E.,
Sec. 6, lots 6 and 7, E½SW¼, and W½SE¼;
Sec. 7, lots 1 and 2, E½NW¼, and W½NE¼.

The area described aggregates 2,387.22 acres, more or less, in Custer County.

3. At 9 a.m. on May 16, 1990, the lands described in paragraph 1 will be open to such forms of disposition as may by law be made of National Forest System lands, subject to valid existing rights, the provisions of existing withdrawals, any segregations of records, and the requirements of applicable law.

4. At 9 a.m. on May 19, 1990, the lands described in paragraph 2 will be open to such forms of disposition as may by law be made of National Forest System lands, subject to valid existing rights, the provisions of existing withdrawals, any segregations of record, and the requirements of applicable law.

Dated: April 5, 1990.

John A. Kwiatkowski,

Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 90-8742 Filed 4-13-90; 8:45 am]

BILLING CODE 4310-DN-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the Ninety-Ninth Meeting of the Board for International Food and Agricultural Development (BIFAD) on April 26 and 27, 1990.

The purposes of the Meeting are: (a) to hear reports and discussion of BIFAD Charter Revision, BIFAD Training Committee, The results of Title XII Projects, Famine Prevention Activities, Food & Agriculture 2000 Task Force, and Sustainable Agriculture, (b) Program of Asia, Near East and Europe Bureau, (c) Food, Agriculture, and the Environment in U.S. Foreign Policy, (d) India—U.S. University Linkages.

The April 26-27, 1990, Meetings will be held in the Department of State, Room 5951. Any interested person may attend and may present oral statements in accordance with procedures established by the Board and to the extent the time available for the meeting permits.

The Bureau for Diplomatic Security has implemented new procedures for being in the Department of State building. All persons, visitors and employees, are required to wear proper identification at all times while in the building.

Please let the BIFAD Staff know (at tel. nos. 663-2585 or 663-2578) that you expect to attend the meeting and on which days. Provide your full name, name of employing company or organization, address and telephone number not later than Friday, April 20. This will help you avoid waiting in line for a visitor's pass.

A BIFAD Staff member will meet you at the Department of State entrance at 21st and C Streets (at Virginia Avenue) with your visitor's pass.

Visitors who are not pre-cleared will have to wait in line and present a valid identification with photograph to the receptionist before they can be admitted to the building.

Curtis Jackson, Bureau of Science and Technology, Office of Research and University Relations, Agency for International Development is designate at A.I.D. Advisory Committee Representative at this Meeting. It is suggested that those desiring further information write to Dr. Jackson, in care of the Agency for International Development, Rm 309, SA–18, Washington, DC 20523, or telephone him on (703) 875–4005.

Dated: April 10, 1990.

Lynn L. Pesson,

Executive Director, BIFAD.

[FR Doc. 90–8733 Filed 4–13–90; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF JUSTICE

Information Collections Under Review

April 10, 1990

The Office of Management and Budget (OMB) has been sent the following collection of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published.

Entries are grouped into submission categories, with each entry containing the following information: (1) The title of the form/collection; (2) the agency form number, if any, and the applicable component of the Department sponsoring the collection; (3) how often the form must be filled out or the information is collected; (4) who will be asked or required to respond, as well as a brief abstract; (5) an estimate of the total number of respondents and the amount of time estimated for an average respondent to respond; (6) an estimate of the total public burden (in hours) associated with the collection; and, (7) an indication as to whether section 3504(h) of Public Law 96–511 applies. Comments and/or suggestions regarding the item(s) contained in this notice, especially those regarding the estimated public burden and the associated response time, should be directed to the OMB reviewer, Mr. Edward H. Clarke, on (202) 395–7340 *AND* to the Department of Justice's Clearance Officer, Mr. Larry E. Miesse, on (202) 633–4312. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer *AND* the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, *AND* to Mr. Larry E. Miesse, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

New Collection

(1) Denial of Federal Benefits for Drug Offenders.

(2) OJP 3500/2. Office of Justice Programs.

(3) On occasion.

(4) State or local governments, Federal agencies or employees. P.L. 100–690 contains information collection requirements necessary to ensure that convicted drug offenders do not receive any Federal benefits that have been denied them by court action.

(5) 36,665 estimated respondents at .083 hours each.

(6) 3,055 estimated annual burden hours.

(7) Not applicable under 3504(h).

Extension of the Expiration Date of a Currently Approved Collection Without any Change in the Substance or in the Method of Collection

(1) Application for Registration; Application for Registration Renewal.

(2) DEA 224 (Application); DEA 224a (Renewal). Drug Enforcement Administration.

(3) On occasion (Application); triennially (Renewal).

(4) Individuals or households, small businesses or organizations, businesses or other for-profit. All firms and individuals who distribute or dispense controlled substances must register with the Drug Enforcement Administration under the Controlled Substances Act. Registration is needed to control measures over legal handlers of controlled substances and is used to monitor their activities.

(5) 275,000 estimated annual responses at .20 hours per response.

(6) 55,000 estimated annual public burden hours.

(7) Not applicable under 3504(h).

Larry E. Miesse,

Department Clearance Officer, U.S. Department of Justice.

[FR Doc. 90–8774 Filed 4–13–90; 8:45 am]

BILLING CODE 4410–18–M

Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *J.M. Painting and Construction Co., Inc., et al.* (D.N.J.), civil No. 86–3461, has been lodged with the United States District Court for the District of New Jersey. The Consent Decree resolves the United States' complaint against J.M. Painting and Construction Co., Inc. ("JM") and the Board of Education of the City of Newark, New Jersey ("Board") for violations of the National Emission Standard for Hazardous Air Pollutants ("NESHAP") governing asbestos that occurred in 1985 in connection with the renovation of the Vailsburg High School in Newark.

The proposed decree requires (a) JM to pay a civil penalty of $13,000 and the Board to pay a civil penalty of $10,000 and (b) each defendant to establish an asbestos control program specifying procedures and a program of operation designed to prevent future violations of the asbestos NESHAP.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *J.M. Painting and Construction Co., Inc., et al.*, D.J. Ref. No. 90–5–2–1–978.

The proposed Consent Decree may be examined at the office of the United States Attorney, District of New Jersey, 970 Broad Street, room 502, Newark, New Jersey 07102 and at the Office of Regional Counsel, United States Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278. Copies of the Consent Decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, room 1647(D), Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice. In requesting a copy, please refer to the referenced case name and D.J. Ref. number 90–5–2–1–978 and enclose a check in the amount of $1.90 (ten cents per page reproduction cost) payable to the Treasurer of the United States.

Richard B. Stewart,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 90–8775 Filed 4–13–90; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Design Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Design Arts Advisory Panel (Challenge III Section) to the National Council on the Arts will be held on May 4, 1990, from 9 a.m.–5 p.m. in room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on May 4 from 4 p.m.–5 p.m. The topic will be policy issues.

The remaining portion of this meeting on May 4 from 9 a.m.–4 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: April 9, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90–8741 Filed 4–13–90; 8:45 am]

BILLING CODE 7537–01–M

Meeting of Music Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Solo Recitalists Fellowship Section) to the National Council on the Arts will be held on May 2, 1990 from 9 a.m.–6 p.m. and on May 3 from 9 a.m.–5:30 p.m. in Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on May 3, 1990, from 4 p.m.—5:30 p.m. The topic for discussion will be policy issues and guidelines.

The remaining portions of this meeting on May 2, 1990, from 9 a.m.–6 p.m. and May 3 from 9 a.m.–4 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5433.

Dated: April 6, 1990.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90–8740 Filed 4–13–90; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Alan T. Waterman Award Committee; Renewal

The Director of the National Science Foundation has determined that the renewal of the Alan T. Waterman Award Committee is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), by 42 USC 1861 *et seq.*. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Authority for this Committee expires April 19, 1992 unless it is renewed.

Dated: April 11, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90–8765 Filed 4–13–90; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Astronomical Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Astronomical Sciences.

Date and Time: April 26 and 27, 1990 9 A.M.–5 P.M.

Place: National Science Foundation, Room 543.

Type of Meeting: Open.

Contact Person: Dr. Laura P. Bautz, Director, Division of Astronomical Sciences, Room 615, National Science Foundation, Washington, DC 20550 (202/357–9488).

Minutes: May be obtained from the contact person at the above address.

Purpose of Committee: To provide advice and recommendations concerning research programs, proposals, and projects in NSF-funded astronomy with the objective of achieving the highest quality forefront research for the funds allocated. To provide advice and recommendations concerning short-range and long-range plans in astronomy, including a recommendation of relative priorities.

Thursday, April 26

Agenda: Status of FY 1991 Budget, Long-Range Plans and FY 1992 Priorities, Report of Committee of Visitors, Report on Astronomical Instrumentation and Development Program, and Status of 8-Meter Telescopes.

Friday, April 27

Continuation of Topics from Previous Day, Presentation on NSF Education Programs, Presentation on NASA Astrophysics Data Program.

Reason for Late Submission: Office Reorganization.

Dated: April 11, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90–8766 Filed 4–13–90; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittees on Advanced Pressurized Water Reactors and Advanced Boiling Water Reactors; Postponement

The ACRS Subcommittee meeting on Advanced Pressurized Water Reactors and Advanced Boiling Water Reactors meeting scheduled to be held on Thursday, April 26, 1990, in the Pennsylvania room at the Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD has been postponed. The notice of this meeting was previously published in the Federal Register on Friday, April 6, 1990 (55 FR 12972).

Dated: April 10, 1990.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 90–8756 Filed 4–13–90; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Subcommittees on Severe Accidents and Probabilistic Risk Assessment; Rescheduling of Meeting

The joint Subcommittees on Severe Accidents and Probabilistic Risk Assessment scheduled to meet from 8:30 a.m. until 5 p.m. has been changed to 8 a.m. until 3 p.m. on Wednesday, April 18, 1990, room P–110, 7920 Norfolk Avenue, Bethesda, MD. All other items pertaining to this meeting remain the same as previously published in the Federal Register on Tuesday, April 3, 1990 (55 FR 12432).

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Dean Houston (telephone 301/492–9521) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: April 10, 1990.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 90–8757 Filed 4–13–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–443; License No. NPF–86]

Receipt of Petition for Director's Decision Under 10 CFR 2.206; Public Service Co. of New Hampshire

Notice is hereby given that an Emergency Motion filed with the Commission on March 14, 1990 by the New England Coalition on Nuclear Pollution, Seacoast Anti-Pollution League, and the Commonwealth of Massachusetts is being considered by the NRC Staff as a Petition filed pursuant to 10 CFR 2.206. The Motion was based on alleged recent, previously undisclosed industry reports of extensive and serious regulatory noncompliance at the Seabrook nuclear facility of the Public Service Company of New Hampshire. The Motion argued that the NRC had no valid technical basis for finding that the Seabrook reactor complies with the NRC's regulations and is safe to operate.

In its Order of March 15, 1990, the Commission denied the Emergency Motion.

The Motion (Petition) was then referred to the Director of Nuclear Reactor Regulation for preparation of a Director's Decision pursuant to 10 CFR 2.206. As provided by § 2.206, appropriate action will be taken with regard to the Petition within a reasonable time.

A copy of the Motion is available for inspection at the Commission's Public Document Room at 2120 L Street NW., Washington, DC 20555, and at the Local Public Document Room for the Seabrook facility located at the Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833.

Dated at Rockville, Maryland, this 9th day of April 1990.

For the Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 90–8759 Filed 4–13–90; 8:45]

BILLING CODE 7590–01–M

[Docket No. 50–213]

Connecticut Yankee Atomic Power Co., Haddam Neck Plant; Exemption

I

The Connecticut Yankee Atomic Power Company (CYAPCO, the licensee) is the holder of Facility Operating License No. DPR–61 which authorizes operation of the Haddam Neck Plant. The license provides, among other things, that the Haddam Neck Plant is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The plant is a single-unit pressurized water reactor at the licensee's site located in Middlesex County, Connecticut.

II

On November 19, 1980 the Commission published a revised section 10 CFR 50.48 and a new appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants. The revised § 50.48 and appendix R became effective on February 17, 1981. Section III of appendix R contains 15 subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. More specifically the section III.G of appendix R requires the following:

Section III.G.1.(a) of appendix R requires that fire protection features be provided for structures, systems, and components important to safe shutdown. These features shall be capable of limiting fire damage so that one train of systems necessry to achieve and maintain hot shutdown conditions from either the control room or emergency control station is free of fire damage.

Section III.G.2 of appendix R requires that one train of cables and equipment necessary to achieve and maintain safe shutdown be maintained free of fire damage by one of the following means:

a. Separation of cables and equipment and associated non-safety circuits of redundant trains by a fire barrier having a 3-hour rating. Structural steel forming a part of or supporting such fire barriers shall be protected to provide fire resistance quivalent to that required of the barrier;

b. Separation of cables and equipment and associated non-safety circuits of redundant trains by a horizontal distance of more than 20 feet with no intervening combustible or fire hazards. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area; or

c. Enclosure of cable and equipment and associated non-safety circuits of one redundant train in a fire barrier having a 1-hour rating. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area.

By letter dated October 27, 1989, CYAPCO requested exemptions from the above requirements for four locations in the Haddam Neck Plant.

III

By letter dated October 27, 1989 the licensee requested exemptions from

section III.G of appendix R. These exemptions were requested based on a meeting held on August 30, 1988 on fire protection issues at the Haddam Neck Plant. The staff noted in that meeting that in at least three locations conditions existed which impacted existing exemptions from appendix R and that supplemental exemptions would be needed. In addition, the licensee identified one additional area where an exemption is warranted. The following is a list of CYAPCO's exemption requests:

1. Auxiliary Feedwater Pump Room. An exemption was requested from the specific requirements of section III.G.1.(a) to the extent that the motor operators for redundant auxiliary feedwater valves in the auxiliary feedwater pump room (Fire Area R–2) are vulnerable to fire damage.

2. Men's Locker Room, Fire Area S–3 and Residual Heat Removal (RHR) Pump Pit Area, Fire Area A–1. In safety evaluation reports dated November 27, 1987 and November 14, 1984, the staff approved exemptions from the technical requirements of section III.G of Appendix R to 10 CFR part 50 in the above plant locations. The licensee has made modifications in these areas which change the physical configuration and protection of safe shutdown cables. Therefore, the separation to cables is no longer in conformance with III.G.2 of appendix R and exemptions were submitted for these two areas.

3. Containment Cable Vault. By letter dated November 14, 1984, the staff granted approval of an exemption in the containment cable vault area from the requirements of section III.G.2.(c) of appendix R. The licensee's justification for this exemption was based, in part, on their proposal to protect certain cables in a 1-hour fire-rated cable wrap. This was necessary because while redundant shutdown circuits were separated by 20 feet the intervening space contained combustible materials. The licensee now proposes to use fire-rated cables instead of the 1-hour cable wrap. However, because certain redundant shutdown cables will still be separated by spatial separation with intervening combustibles, an exemption from section III.G.2.(b) for this area was requested.

The staff has reviewed the four exemption requests and has concluded that an acceptable basis for granting these exemptions exists. The exemptions are discussed below.

1.0 Auxiliary Feedwater Pump Room (Fire Area R–2)

An exemption was requested from the specific requirements of section III.G.1(a) of appendix R to 10 CFR part 50 for the motor operators for redundant auxiliary feedwater valves in the auxiliary feedwater pump room because they are vulnerable to fire damage.

1.1 Discussion

Motor-operated valves (MOV) FW–MOV–35 and FW–MOV–160 are located in the auxiliary feedwater pump room. These valves are used to direct auxiliary feedwater flow to the steam generators along either the preferred path through the auxiliary feedwater regulating valves or along the alternate path, directly to the steam generators. The valves are aligned in their design hot shutdown position during normal plant power operations and would not be required to change position in the event of an appendix R fire scenario.

1.2 Evaluation

The technical requirements of section III.G.1.(a) have not been satisfied in this area because the circuits and valve operators for redundant auxiliary feedwater valves are not protected in a manner which precludes fire damage.

The subject valves are aligned in their desired hot shutdown position during normal plant operation. The licensee has indicated that the design of the motor operators for the valves is that they fail as is. Consequently, the staff's only concern is that a fire could damage the circuit associated with the automatic operation of the valves in such a manner that a spurious signal could result in a realignment of the valves. The licensee has performed a spurious signal analysis in accordance with the guidance issued in Generic Letter 81–12. The results of the analysis indicated that only a hot short on all three phases of the circuits in proper sequence would cause a spurious signal. The staff does not consider this a credible scenario except in the case of high-low pressure piping interfaces. Because these valves are not in a high-low pressure piping interface and the circuits are in conduit, the staff concerns regarding spurious signals are considered resolved.

1.3 Conclusion

Based on the above evaluation, the staff concludes that the existing plant condition achieves an equivalent level of safety to the achieved by conformance with section III.G.1 of the Rule. Therefore, the licensee's exemption request from the requirements of section III.G.1.(a) in the auxiliary feedwater pump room (Fire Area R–2) should be granted.

2.0 Men's Locker Room, Fire Area S–3 RHR Pump Pit Area, Fire Area A–1

Exemptions where requested from the specific requirements of section III.G.2. for the above areas because the separation of the cables are not in strict conformance with appendix R.

2.1 Discussion

In safety evaluation reports dated November 27, 1987 and November 14, 1984, the staff approved exemptions from the technical requirements of section III.G of appendix R to 10 CFR part 50 for the above plant locations. By letter dated October 27, 1989, the licensee described modifications to be performed in these areas which change the physical configuration and protection of safe shutdown cables. Consequently, these revised exemption requests were submitted.

a. Men's Locker Room

With the construction of the new switchgear building, the power supply for Service Water Pump "D" will be moved from the old switchgear room to the new switchgear building. Accordingly, the cables for Pump "D" will be rerouted, and will now pass beneath the sevice building flood before entering the old duct bank. The cables will join in a new concrete junction box located below the floor of the men's locker room. In this junction box, a new cable will be spliced onto the existing "D" service water pump cable and travel out to the intake structure in its own conduit in the duct bank. The only separation at this point to the intake structure will be the conduits in a concrete duct bank which is considered a new junction box. This new route will eliminate the need to have all four service water cables in the same vertical cable chase, as presently configured.

b. RHR Pump Pit Area

The staff's approval of the original exemption in the RHR pump pit area was based on credit for a partial height wall which separated redundant shutdown cables and components, and the rerouting of redundant RHR cables to enhance a physical separation. At this time, the licensee proposes to protect one division of RHR pump cables by a 3-hour fire rated cable wrap, as described in their October 27, 1989 letter in lieu of rerouting cables. Addition modifications include installation of curbing at the access to the pump rooms to mitigate the effect of a lube oil spill and potential fire, and sealing the access hatchway from operating floor, elevation 21 feet 6 inches.

2.2 Evaluation

The technical requirements of section III.G of appendix R have not been met in the subject areas because the redundant cables and components have not been separated and protected in accordance with the fire protection options delineated in appendix R.

The staff was initially concerned that a fire of sufficient magnitude and intensity could develop in these areas and damage both shutdown trains. However, the men's locker area is protected by an automatic sprinkler system. If a fire were to occur, the system would actuate to both control the fire and protect the shoutdown circuits in the area. Concurrently, an alarm would be transmitted automatically to the control room. The plant fire brigade would be dispatched and would put out any residual combustion with available manual fire fighting equipment.

In the RHR pump pit area, the in-situ combustible loading is minimal. The most likely fire scenario is a lube oil spill and fire. The curb at the entrance to the cubicle would prevent oil from spreading beyond the immediate spill area. If ignition of the oil occurs, it would be detected in its initial stages by plant operators or the existing fire detection system. An alarm from the detection system would be transmitted automatically to the control room. The plant fire brigade would arrive within minutes to put out the fire manually. Pending arrival of the brigade, the RHR pump cubicle walls would shield the redundant pumps from direct flame impingement and radiant energy. The smoke and hot gases from a fire would collect at the ceiling, and not encompass vulnerable cables or the redundant pump until well after the arrival of the brigade. The staff, therefore, concludes that the existing fire protection features with the proposed modifications in these two areas is sufficient to provide reasonable assurance that at least one shutdown division will remain free of fire damage.

2.3 Conclusion

Based on the above evaluation, the staff concludes that the licensee's alternate fire protection configuration provides an equivalent level of fire safety to that achieved by compliance with the requirements of appendix R. Therefore the licensee's request for examption from the requirements of section III.G of appendix R to 10 CFR 50 in the subject areas should be granted.

3.0 Containment Cable Vault

An exemption was requested from the requirements of section III.G.2(b) for the above area.

3.1 Discussion

By letter dated November 14, 1984, the staff granted an exemption in the cable vault area from the requirements of section III.G.2(c) of appendix R. Specifically, redundant shutdown circuits were separated by 20 feet but the intervening space contained combustibles. The licensee's justification for the original exemption was based, in part, or a proposal to protect certain shutdown cables in a 1-hour fire-rated cable wrap. The licensee has now proposed to utilize fire-rated cables in lieu of a 1-hour cable wrap. However, because certain redundant shutdown cables will still be separated by spatial separation with intervening combustibles, and exemption for the area is required.

Fire-rated mineral insulated (MI) cables will be used to transmit one set (train B) of appendix R safe shutdown process monitoring parameters through the cable vault. This set of safe shutdown parameters will be utilized during cable vault fires. The MI cable has been successfully tested in accordance with ASTM Standard E119 for a 3-hour fire rating. This MI cable has been previously approved by the staff.

The transition from containment to the cable vault will be made via special welded penetrations which incorporate the fire qualified MI cable. The routing of the cable will be such that falling debris resulting from a cable vault fire will not affect the integrity of the MI cable. The MI cable will be fastened to the cable vault surfaces using unistrut and tubing clips. This fastening method has been qualified as part of the MI cable fire qualification.

The transition from MI cable to organic cable will take place within a 1-hour fire rated enclosure. This enclosure and the conduit transition to the duct bank will have a 1-hour wrap and will carry the appendix R, Train B instrument cables from the cable vault. This enclosure and the cable runs from the duct bank to the enclosure will be fire protected to meet appendix R, section III.G.2.c. This enclosure and the cable runs have also been evaluated with respect to falling debris resulting from a cable vault fire and have been determined to retain their integrity.

The licensee's proposal to utilize 3-hour fire-rated MI cable in lieu of 1-hour fire-rated cable wrap as discussed in the subject letter is considered an enhancement over the fire protection configuration approved in our November 14, 1984 safety evaluation. Since no other significant change is being proposed at this time, the staff concludes that the original justification for granting the exemption for containment cable vault remains valid.

3.3 Conclusion

Based on the above review, and previously granted exemptions in this area, the staff concludes that the licensee's alternate fire protection configuration provides an equivalent level of safety to that achieved by compliance with appendix R to 10 CFR part 50. Therefore, the licensee's request for exemption from section III.G.2 of appendix R to 10 CFR part 50 in the cable vault should be granted.

IV

Pursuant to 10 CFR 50.12(a)(2), the Commission will not consider granting an exemption unless special circumstances are present. Item (ii) of the subject regulation includes special circumstances where application of the subject regulation would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.

The underlying purpose of section III.G is to provide adequate protection of redundant components of safety-related equipment by limiting damage in the event of a fire at one safety-related component location so that the performance of the other safety-related component is not affected. The licensee has installed automatic fire detection and suppression systems, made modifications to control oil spills, proposes to utilize 3-hour fire-rated cables in lieu of 1-hour cable wrap and provided analysis to resolve spurious signal actuation concerns in lieu of separation of the components as prescribed by appendix R. As described in the evaluation section of each exemption request, the staff has concluded that the existing fire protection systems provide equivalent or superior fire protection to that which would be provided by meeting the literal separation requirements of section III.G of appendix R.

In summary, the staff has concluded that the alternative fire protection provided in support of the exemptions meets or exceeds the fire protection which would otherwise occur if literal compliance with the separation requirements were required. Therefore, the staff concludes that "special circumstances" exist for the licensee's requested exemptions in that imposition

of the literal requirements of the regulation in these particular circumstances is not necessary to achieve the underlying purposes of appendix R to 10 CFR part 50.

V

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a)(2)(ii), special circumstances exist in that existing levels fire protection systems satisfy the underlying sections of appendix R to 10 CFR part 50. Further, the staff has concluded that the requested exemptions are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest. Therefore, the Commission hereby grants the exemption requests from the requirements of section III.G of appendix R to 10 CFR part 50 described in section III above.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of this exemption will have no significant impact on the environment (55 FR 13201).

A copy of the Commission's concurrent Safety Evaluation related to this action and the above referenced submittal by the licensee is available for public inspection at the Commission's Public Document Room 1717 H Street NW., Washington, DC and at the local public document room located at the Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this April 10, 1990.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90-8762 Filed 4-13-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-255]

Consumer's Power Co.; Consideration of Issuance of Amendment to Provisional Operating License and Proposed No Significant Hazards Consideration Determining and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR-20, issued to Consumers Power Company (the licensee) for operation of the Palisades Plant (the facility), located in Van Buren County, Michigan.

The proposed amendment would revise the requirement of Technical Specification (TS) 4.14.1 by extending the due date for the periodic steam generator inspections which otherwise would be due later than July 4, 1990. The licesnee's application for amendment is dated March 6, 1990. Specifically, the amendment would add a footnote applicable to TS section 4.14.1 to permit a one-time extension that would be valid only up to the 1990 refueling outage when the steam generators are scheduled to be replaced. Should the steam generators not be replaced by the end of the refueling outage, the inspections of the steam generators would be required prior to start-up.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has evaluated the proposed change against the above standards as required by 10 CFR 50.91(a) and has concluded that:

A. The change does not involve a significant increase in the probability or consequences of an accident previously evaluated (10 CFR 50.92(c)(1)). The extension of the inspection period from the due date of July 4, 1990 to the planned September 1, 1990, start of the refueling outage does not represent a significant extension of the inspection period; i.e., thirty months vice thirty-two months. (The TS specifies an inspection interval of twenty-four months, but the interval is allowed to extend up to thirty months if the mean increase in tube degradation from the previous inspection is less than 1 percent.)

Furthermore, wastage and intergranular attack (IGA) mechanisms appear stable. Recent tube leaks have been due to circumferential cracking in the vicinity of the tube support plates, and a large percentage of the steam generator tubes have been inspected, since the last TS inspection was conducted in December 1987, in four separate inspections to locate these leaking tubes.

B. The change does not create the possibility of a new or different kind of accident from any accident previously evaluated (10 CFR 50.92(c)(2)) because the lengthening of the inspection interval by two months is not likely to alter the degradation mechanisms active on the steam tubes or create a new mechanism for failure.

C. The change does not involve a significant reduction in a margin of safety (10 CFR 50.92(c)(3)) because the licensee has committed to operate the facility at reduced power and with an administrative primary to secondary leak rate limit of 0.05 gpm, considerably lower than the TS limit of C.3 gpm. Furthermore during the approximately two month extension any additional tube degradation is not expected to be significant.

Therefore, based on the above considerations, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information, and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-223, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 16, 1990, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject provisional operating license and any person whose interest may be affected by this proceeding and who whishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance

with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room located at the Van Zoeren Library, Hope College, Holland, Michigan 49423. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomis Safety and Licensing Board, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropirate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to paticipate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–800–325–6000 (in Missouri 1–800–342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John O. Thoma: (petitioner's name and telephone number); (date petition was mailed); (plant name); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 6, 1990, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555, and at the Local Public Document Room located at the Van Zoeren Library, Hope College, Holland, Michigan 49423.

Dated at Rockville, Maryland this 9th day of April, 1990.

For the Nuclear Regulatory Commission.

William O. Long,

Acting Director, Project Directorate III–1, Division of Reactor Projects—III, IV, V and Special Projects Office of Nuclear Reactor Regulation.

[FR Doc. 90–8758 Filed 4–13–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50-423]

Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing; Northeast Nuclear Energy Co.

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-49 and issued to Northeast Nuclear Energy Company, et al (the licensee), for operation of the Millstone Nuclear Power Station, Unit 3, located at the licensee's site in New London County, Connecticut.

The proposed amendment would modify the Technical Specifications to allow an increase in the normal containment pressure range; the proposed range is 10.6 psia to 14.0 psia. The current containment pressure range has a lower value of 8.9 psia with a variable upper value, depending upon service water temperature, up to approximately 10.6 psia.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By May 16, 1990, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene.

Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room located at the Learning Resources Center, Thomas Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John F. Stolz: Petitioner's name and telephone number; date petition was mailed; plant name; and publication data and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Garfield, Esquire, Day, Berry & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated February 26, 1990 which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Room, the

Learning Resources Center, Thomas Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Dated at Rockville, Maryland, this 9th day of April 1990.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90–8761 Filed 4–13–90; 8:45 am]

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Docket Nos. 50–387 and 50–388

Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing; Pennsylvania Power and Light Co.

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–14 and NPF–22, issued to Pennsylvania Power and Light company (the licensee), for operation of the Susquehanna Steam Electric Station, Units 1 and 2 located in Salem Township, Luzerne County, Pennsylvania.

The amendments would change the Technical Specifications by eliminating the quick loading requirements of the diesel generators during monthly testing, and incorporating certain footnotes that allow the diesel generators to be prelubed and prewarmed prior to surveillance testing. Additionally, the amendments would modify the load testing requirements of the diesel generators by including a load range rather than a specific load, and would make editorial changes for the purpose of achieving clarity.

During September and October of 1989, Susquehanna Steam Electric Station (SSES) experienced two diesel generator crankcase explosions. To address the safety concerns associated with those events, the licensee established a task force to investigate the root causes(s) of the events and recommend corrective actions. After extensive studies and discussions with the manufacturer of the diesel generators and the NRC staff, the licensee concluded that the crankcase explosions at SSES were probably caused by several unique factors which included the severity of testing procedures required by the Technical Specifications. This conclusion was presented to the staff in a meeting on February 28, 1990. The staff agreed with the licensee's proposals and urged the licensee to submit appropriate changes to the Technical Specifications in an expeditious manner. By a letter dated March 16, 1990, as revised by a letter dated April 2, 1990, the licensee submitted its request for changes to the Technical Specifications on an exigent basis. The staff agreed with the licensee's bases for processing the application on an exigent basis, because an improvement in safety was involved and because immediate action was needed to prevent subsequent testing of the diesel generator in accordance with the existing Technical specifications requirements that were found to be potential contributors to the crankcase explosions.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the commission's regulations.

The Commission has made a proposed determination that the amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission's staff has reviewed the following bases and conclusions provided by the licensee to address the above provisions of 10 CFR 50.92.

The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. The diesel generators are not addressed in the accident analyses other than in a design basis assumption which is that shutdown of the units during an accident must be accomplished utilizing three diesels. The proposed changes will enhance diesel reliability and availability thereby reducing the probability of a common mode failure which ensures the validity of the accident analysis assumptions. Although the proposed testing reduces the conservatism in the Tech Specs by modifying the load requirements, previous testing, and the fact that the new load ranges envelope worst case accident loads, provide assurance that the diesels will perform their intended function and therefore will not significantly increase the consequences of accidents previously evaluated.

The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated. As noted above, the accident analyses consider a diesel generator failure as a single failure. The proposed changes do not create any new testing methods, and the existing test requirements are being modified to decrease the probability of a common mode failure. Therefore, the proposed changes do not create the possibility of a new or different event.

The proposed changes do not involve a reduction in the margin of safety. The revised testing requirements will reduce the current levels of stress and wear on the engines, thereby reducing the potential for premature diesel failures. Test results to date provide clear evidence that the diesel generators are capable of handling the currently described worst case conditions. This, combined with the proposed testing which provides continued assurance that the worst case accident loads will be enveloped, results in no significant decrease in the margin of safety.

The staff finds the licensee's bases and conclusions to be acceptable. Accordingly, the Commission proposes to determine that these changes involve a no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 2055, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P–223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 16, 1990, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rule of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714

which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room, located at Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission for an Atomic Safety and licensing Board, designated by the Commission or by the chairman of the Atomic Safety and licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceedings, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of 30-days, the Commission will make a final determination on the issue of no significant hazards considerations. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Walter R. Butler, Director, Project Directorate I-2, Division of Reactor Projects I/II: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 16, 1990, as revised April 2, 1990, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Room, Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Dated at Rockville, Maryland, this 9th day of April 1990.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Director, Project Directorate I-2, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90-8760 Filed 4-13-90; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Availability of Report

AGENCY: Office of Management and Budget, Office of Federal Procurement Policy.

ACTION: Notice of availability of the Procurement Regulatory Activity Report, Number 2.

SUMMARY: Subsections 25(g)(1) and (2) of the Office of Federal Procurement Policy (OFPP) Act, as amended by Public Law 100–679, require the Administrator for Federal Procurement Policy to publish a report within 6 months after the date of enactment and every 6 months thereafter relating to the development of procurement regulations.

Accordingly, OFPP has prepared the second Procurement Regulatory Activity Report of 1989. This report is designed to satisfy all aspects of subsections 25(g)(1) and (2) of the OFPP Act, and includes information on: the status of each regulation; a description of those regulations required by statute; a description of the methods by which public comment was sought; regulations, policies, procedures, and forms under review by the OFPP; whether the regulations have paperwork requirements; the progress made in promulgating and implementing the Federal Acquisition Regulation; and such other matters as the Administrator determines to be useful.

ADDRESSES: Those persons interested in obtaining a copy of the Procurement Regulatory Activity Report should contact the Executive Office of the President Publications Service, Room 2200, 725 17th Street, NW., Washington, DC 20503, or phone (202) 395–7332.

Allan V. Burman,

Administrator.

[FR Doc. 90–8738 Filed 4–13–90; 8:45 am]

BILLING CODE 3110–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Rensselaer County, NY

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Rensselaer County, New York.

FOR FURTHER INFORMATION CONTACT: J. Robert Lambert, Director, Facilities Design Division, New York State Department of Transportation, State Campus, 1220 Washington Avenue, Albany, New York 12232, Telephone: (518) 457–6452, or Harold J. Brown, Division Administrator, Federal Highway Administration, New York Division, Leo W. O'Brien Federal Building, 9th Floor, Clinton Avenue and North Pearl Street, Albany, New York 12207, Telephone: (518) 472–3616.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New York State Department of Transportation (NYSDOT) will prepare an environmental impact statement (EIS) on a proposal to provide a new interchange on Interstate 90 (I–90), in Rensselaer County. The proposed improvements involve the construction of a new interchange on I–90 and a new connecting highway on new alignment in the Town of North Greenbush from the vicinity of I–90 easterly to Route 4 or Washington Avenue in the Vicinity of Defreestville, Town of North Greenbush. Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand.

Alternatives under consideration include (1) taking no action; (2) using alternate travel modes; (3) providing a new Interchange on I–90 connecting to Route 4 or Washington Avenue in the vicinity of Defreestville, Town of North Greenbush, Rensselaer County. Incorporated into and studied with the various build alternatives will be design variations of grade and alignment and interchange modifications.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. Also planned are early coordination and exchanges of information with the public and agencies through public information meetings, direct requests to other agencies to become cooperating agencies, and early notification and solicitation with entities affected by the proposed action through the clearinghouse process. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearings. The draft EIS will be available for public and agency review and comment. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the NYSDOT or FHWA at the addresses provided above.

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Issued on: March 22, 1990.

F.H. Platt,

Acting District Engineer.

[FR Doc. 90–8776 Filed 4–13–90; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

April 10, 1990.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0387.
Form Number: IRS Form 4419.
Type of Review: Revision.
Title: Application for Filing Information Returns Magnetically/Electronically.
Description: 26 U.S.C. 6041 and 6042 require that all persons engaged in a trade or business and making payments of taxable income must file reports of this income with IRS. Payers are required to file certain returns on magnetic media after reaching a certain volume of returns. The Revenue Reconciliation Act of 1989, section 7713, changed the threshold requirements. Payers required to file on magnetic media must complete Form 4419 to receive authorization to file.
Respondents: State and local governments, Farms, Businesses or other for-profit, Federal agencies or

employees, Non-profit institutions, Small businesses or organizations.
Estimated Number of Respondents: 5,000.
Estimated Burden Hours Per Response: 26 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 2,167 hours.
OMB Number: 1545–0995.
Form Number: None.
Type of Review: Extension.
Title: Allocation of Interest Expense Among Expenditures.
Description: The IRS needs this information in order to determine that a taxpayer has properly allocated interest expense on debt incurred before 1987 in accordance with a transitional rule for such debt rather than in accordance with the normal allocation rules that are based on the use of the debt proceeds.
Respondents: Individual or household, Farms, Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 1.
Estimated Burden Hours Per Response: 1 hour.
Frequency of Response: Other (1987 returns).
Estimated Total Reporting Burden: 1 hour.
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Bulding, Washington, DC 20503.

Lois K. Holland,

Department Reports, Management Officer.

[FR Doc. 90–8745 Filed 4–13–90; 8:45 am]

BILLING CODE 4830–01–M

Office of Thrift Supervision

[No. 90–573]

Thrift Financial Report; Information Collection

April 9, 1990.

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Notice.

SUMMARY: The public is advised that the Office of Thrift Supervision has submitted a request for a revision of an information collection entitled "Thrift Financial Report," to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The information collected will enable the Office of Thrift Supervision to monitor the on-going financial condition of insured institutions and to make initial determinations with respect to their compliance with the new regulatory requirements. We estimate it will take approximately 378 hours per respondent per year to complete the information collection.

DATES: Comments on the information collection request are welcome and should be received on or before April 26, 1990.

ADDRESSES: Comments regarding the paperwork-burden aspects of the request should be directed to:

Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503; Attention: Desk Officer for the Office of Thrift Supervision

The Office of Thrift Supervision would appreciate commenters sending copies of their comments to the information contact provided below.

Request for copies of the proposed information collection requests and supporting documentation are obtainable at the Office of Thrift Supervision address given below:

Director, Information Services Division, Communications Services, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552, Phone: 202–416–2751

FOR FURTHER INFORMATION CONTACT: Blake Elliott, Surveillance and Analysis (202) 906–9614, Office of Thrift Supervision, 1700 G Street NW., Washington, DC 20552.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–8725 Filed 4–13–90; 8:45 am]

BILLING CODE 6720–01–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Object Imported for Exhibition; Determination

Notice is hereby given of the following determination: 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 object to be included in the exhibit "Powhatan's Mantle" (see list[1]), imported from abroad for the temporary exhibition without profit within the United States, is of cultural significance. This object is imported pursuant to a loan agreement with the foreign lender. I also determine that the temporary exhibition or display of the listed exhibit object at the Jamestown-Yorktown Foundation in Williamsburg, Virginia beginning on or about May 3, 1990 to on or about October 31, 1990, is in the national interest.

Public notice of this determination is ordered to be published in the Federal Register.

Dated: April 11, 1990.

Alberto J. Mora,

General Counsel.

[FR Doc. 90–8783 Filed 4–13–90; 8:45 am]

BILLING CODE 8230–01–M

United States Advisory Commission on Public Diplomacy; Meeting

A meeting of the U.S. Advisory Commission on Public Diplomacy will be held April 18, 1990, in room 600, 301 4th Street SW., Washington, DC, from 10:30 a.m. to 12:30 p.m.

The Commission will meet with Mr. Henry Hockeimer, Associate Director for Management, Ms. Cynthia Miller, Deputy Director, Office of European Affairs and Mr. Stanley Silverman, Comptroller, for a discussion of RIAS and USIA's budget. The Commission will also meet with Ambassador Robert Barry, Special Advisor on Eastern European Affairs and Assistant to the Deputy Secretary of State.

Please call Gloria Kalamets, (202) 485–2468, if you are interested in attending the meeting since space is limited and entrance to the building is controlled.

Dated: April 9, 1990.

Ledra L. Dildy,

Management Analyst, Federal Register Liaison.

[FR Doc. 90–8784 Filed 4–13–90; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Lorie J. Nierenberg of the Office of the General Counsel of USIA. The telephone number is 202/485–8827, and the address is room 700, U.S. Information Agency, 301 Fourth Street SW., Washington, DC 20547.

Sunshine Act Meetings

Federal Register
Vol. 55, No. 73
Monday, April 16, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONSUMER PRODUCT SAFETY COMMISSION

MEETING

TIME AND DATE: Thursday, April 19, 1990, 2:00 p.m.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:
Enforcement Matter OS# 5556.

The Office of General Counsel staff will give legal advice to the Commission on an enforcement matter.

For a Recorded Message Containing the Latest Agenda Information, Call: 301–492–5709

CONTACT PERSON FOR ADDITIONAL INFORMATION: Shelton D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301–492–6800.

Dated: April 11, 1990.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 90–8870 Filed 4–12–90; 2:19 pm]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

MEETING

TIME AND DATE: Wednesday, April 18, 1990, 10 a.m.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: Dioxin in Consumer Products.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

Staff will brief the Commission on the investigation of dioxin in consumer products and its recommendation to transmit the risk assessment to the Environmental Protection Agency (EPA).

For a Recorded Message Containing the Latest Agenda Information, Call: 301–492–5709

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD. 20207, 301–492–6800.

Dated: April 11, 1990.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 90–8871 Filed 4–12–90; 2:19 pm]

BILLING CODE 6355–01–M

Corrections

Federal Register
Vol. 55, No. 73
Monday, April 16, 1990

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.

COPYRIGHT ROYALTY TRIBUNAL

[Docket No. CRT 89-2-87CD]

1987 Cable Royalty Distribution Proceeding

Correction

In notice document 90-7358 beginning on page 11988 in the issue of Friday, March 30, 1990, make the following corrections:

1. On page 11988, in the first column, in the heading, the subject should read as set forth above.

2. On page 11990, in the middle column, in the third paragraph, in the ninth line "58%" should read "58.8%".

3. On page 11992, in the first column, between the fourth and fifth paragraphs, insert the heading, "**Conclusions of Law**".

4. On the same page, in the third column, in the third complete paragraph, in the sixth line"on" should read "no".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 88N-258L]

Prescription Drug Marketing Act of 1987; Letter Setting Forth Agency Policies; Availability

Correction

In notice document 90-4894 beginning on page 7778 in the issue of Monday, March 5, 1990, make the following corrections:

1. The date "April 4, 1990" should read "May 4, 1990" in the following places:
On page 7778 in the third column, under **DATES**;
On page 7779, in the first column, in the third complete paragraph, in the last line; and
On the same page, in the same column, in the last paragraph, in the second line.

2. Also, on page 7779 in the first complete paragraph, in the 6th line, the first word "or" should read "of".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-930-00-4212-11; N-50714]

Realty Action; Lease/Purchase for Recreation and Public Purposes Clark County, NV

Correction

In notice document 90-6109 beginning on page 10008 in the issue of Friday, March 16, 1990, make the following correction:

In the second column, under **Mount Diablo Meridian, Nevada** the third line should read "Sec. 14, W½W½W½W½ SE¼."

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-930-00-4212-11; N-49782]

Realty Action; Lease/Purchase for Recreation and Public Purposes, Lincoln County, NV

Correction

In notice document 90-6108 beginning on page 10007 in the issue of Friday, March 16, 1990, make the following corrections:

1. On page 10008, in the first column, in the second paragraph which is numbered 2, in the last line "400' wide" should read "100' wide".

2. On the same page, same column, in the paragraph numbered 3., in the fourth and fifth lines, "100' wide" should read "400' wide".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-943-00-4214-11; GPO-157; ORE-03586, et al.]

Proposed Continuation of Withdrawals, Oregon

Correction

In notice document 90-6534 beginning on page 10701 in the issue of Thursday, March 22, 1990, make the following correction:

On page 10702, in the first column, under **Siuslaw National Forest**, in the second paragraph, in the fourth line, "Sec. 38" should read "Sec. 28".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-943-00-4214-11; GPO-159; ORE-13665]

Proposed Continuation of Withdrawal; Oregon

Correction

In notice document 90-6535 beginning on page 10702 in the issue of Thursday, March 22, 1990, make the following corrections:

1. On page 10703, in the first column, in the fourth paragraph, in the first line "50 acres" should read "60 acres".

2. In the second column, in the seventh paragraph, in the second line, the land description should read " Secs. 6 and 7, T. 5 S., R. 6 E., W.M."

3. In the same page, in the third column, in second and third paragraphs from the bottom, in the last line of each, "northeast" should read "east".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-943-00-4214-11; GPO-161; Wash-01220, et al.]

Proposed Continuation of Withdrawal; Washington

Correction

In notice document 90-6563 appearing on page 10704 in the issue of Thursday,

March 22, 1990, make the following correction:

In the second column, under **Snoqualmie National Forest**, in the first line, "WASH" should read "WASH-01484,".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-930-09-4214-10; WYW 115104]

Proposed Withdrawal and Opportunity for Public Meeting; Wyoming

Correction

In notice document 89-6056 beginning on page 11085 in the issue of Thursday, March 16, 1989, make the following corrections:

1. On page 11085, in the third column, in the land description, in the 20th line, "N½SE½SE¼" should read "N½SE¼ SE¼". In the 23rd line, "NE½SE¼" should read "NE¼SE¼".

BILLING CODE 1505-01-D

federal register

Monday
April 16, 1990

Part II

Department of Education

Secondary Schools Basic Skills Demonstration Assistance Program; Notice Inviting Applications for New Awards for FY 1990

DEPARTMENT OF EDUCATION

[CFDA No. 84.227]

Secondary Schools Basic Skills Demonstration Assistance Program; Inviting Applications for New Awards for Fiscal Year (FY) 1990

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and applicable parts from the Education Department General Administrative Regulations (EDGAR), the notice contains information, application forms, and instructions needed to apply for a grant under this competition.

Purpose of Program: To provide assistance for carefully designed and monitored demonstration projects to local educational agencies (LEAs) with high concentrations of children from low-income families. These projects will test the effects of specific treatments intended to improve the achievement of educationally disadvantaged secondary school children.

Deadline for Transmittal of Applications: 6/11/90.

Deadline for Intergovernmental Review: 8/10/90.

Available Funds: $4,700,000.

Estimated Range of Awards: $100,000–$300,000.

Estimated Average Size of Awards: $247,000.

Estimated Number of Awards: 19.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 12 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR part 75 (Direct Grant Programs), part 77 (Definitions that Apply to Department Regulations), part 79 (Intergovernmental Review of Department of Education Programs and Activities), part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), part 81 (General Education Provisions Act—Enforcement), part 82 (New Restrictions on Lobbying), and part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

Description of Program: Part B of title VI of the Elementary and Secondary Education Act of 1965 (ESEA), as amended, authorizes programs and activities for secondary school students who meet the requirements of part A of chapter 1 of title I of ESEA, other than the requirement of attendance in a designated school attendance area, i.e., secondary school students in an LEA that is a recipient of a chapter 1 grant whose educational attainment is below the level that is appropriate for children of their age. Funds made available under this part may be used—

(1) To initiate or expand programs designed to meet the special educational needs of secondary school students and to help such students attain grade level proficiency in basic skills, and, as appropriate, learn more advanced skills;

(2) To develop innovative approaches—

(a) For surmounting barriers that make secondary school programs under this part difficult for certain students to attend and difficult for secondary schools to administer, such as scheduling problems; and

(b) For courses leading to successful completion of the general education development test or of graduation requirements;

(3) To develop and implement innovative programs involving community-based organizations or the private sector, or both, to provide motivational activities, pre-employment training, or transition-to-work activities;

(4) To provide programs for eligible students outside the school, with the goal of reaching school dropouts who will not reenter the traditional school, for the purpose of providing compensatory education, basic skills education, or courses for general educational development;

(5) To use the resources of the community to assist in providing services to the target population;

(6) To provide training for staff who will work with the target population on strategies and techniques for identifying, instructing, and assisting such students;

(7) To provide guidance and counseling activities, support services, exploration of postsecondary educational opportunities, youth employment activities, and other pupil services which are necessary to assist eligible students; or

(8) To recruit, train, and supervise secondary school students (including the provision of stipends to students in greatest need of financial assistance) to serve as tutors of other students eligible for services under this part and under part A of chapter 1 of title I of ESEA, in order to assist such eligible students with homework assignments, provide instructional activities, and foster good study habits and improved achievement.

Each LEA may carry out these activities in cooperation with community-based organizations.

Applications: A grant may be made only to an LEA that submits an application to the Secretary. Applications shall be for a one-year period. The application must include—

(1) A description of the program goals and the manner in which funds will be used to initiate or expand services to secondary school students;

(2) A description of the activities and services which will be provided by the program (including documentation to demonstrate that the LEA has the qualified personnel needed to develop, administer, and implement the program under this part);

(3) A list of the secondary schools within the LEA in which programs will be conducted and a description of the needs of the schools, in terms of achievement levels of students and poverty rates;

(4) An assurance that programs will be operated in secondary schools with the greatest need for assistance, in terms of achievement levels and poverty rates;

(5) An assurance that parents of eligible students will be involved in the development and implementation of programs under this part;

(6) A statement of the methods that will be used—

(a) To ensure that the programs will serve eligible students most in need of the activities and services provided by this part; and

(b) To ensure that services will be provided under this part to special populations, such as individuals with limited English proficiency and individuals with handicaps;

(7) An assurance that the program will be of sufficient size, scope, and quality to offer reasonable promise of success;

(8) A description of the manner in which the agency will provide for equitable participation of private school students as provided under section 1017 of ESEA;

(9) A description of the methods by which the applicant will coordinate programs under this part with programs for the eligible student population operated by community-based organizations, social service organizations and agencies, private sector entities, and other agencies, organizations, and institutions, and with programs conducted under the Carl D. Perkins Vocational Education Act, the Job Training Partnership Act, and other relevant acts; and

(10) A designation of the student population to be served as urban or rural.

(11) A designation for each budget item by type of expense: instructional, noninstructional, or administrative.

Distribution of Funds: The Secretary ensures that programs for which

applications are approved are representative of urban and rural regions in the United States. Not more than 25 percent of amounts available to an LEA may be used by such agency for noninstructional services. Not more than 5 percent may be used for administrative costs.

Supplement Not Supplant: An LEA receiving Federal funds under this title shall use such Federal funds only to supplement the funds that would, in the absence of such Federal funds, be made available from non-Federal sources or under provisions of Federal law other than this title for activities described in part A or part B of this title, as the case may be.

Definitions: As used in this title, the term "community-based organization" means a private nonprofit organization which is representative of a community or significant segments of a community and which has a proven record of providing effective educational or related services to individuals in the community. The term "basic skills" includes reading, writing, mathematics, and computational proficiency as well as comprehension and reasoning.

Evaluation: The Secretary intends to conduct an independent evaluation of the effectiveness of the basic skills demonstration projects funded under this program. Grantees should be prepared to cooperate in an in-depth Federal evaluation.

Coordination and Dissemination: LEAs receiving funds under this program must cooperate with the coordination and dissemination efforts of the National Diffusion Network and State educational agencies.

Special Considerations: The Secretary gives preference to applications that meet the following competitive priorities:

(1) Demonstrate the greatest need for services assisted under this part based on numbers or proportions of secondary school children from low-income families and numbers or proportions of low-achieving secondary school children; and

(2) Offer innovative approaches to improving achievement among eligible secondary school children and offer approaches that show promise for replication and dissemination.

Under 34 CFR 75.105(c)(2)(ii) an application that meets these competitive priorities is selected by the Secretary over applications of comparable merit that do not meet the priorities.

Absolute Priorities: The Secretary gives an absolute preference to applications that focus entirely on one or both of the following programs:

(1) Mentoring programs in which adults from the community serve as mentors to educationally deprived secondary school students to assist those students to attain grade-level proficiency in basic skills and, as appropriate, learn more advanced skills. Projects must focus specifically on skill attainment by students. The mentoring programs must provide training and supervision for the mentors.

(2) Peer tutoring programs in which secondary school students assist educationally disadvantaged peers to attain grade-level proficiency in basic skills and, as appropriate, learn more advanced skills by assisting with homework assignments, by providing instructional activities, and by fostering good study habits. The peer tutoring programs must provide training and supervision for the tutors.

Under 34 CFR 75.105(c)(3) the Secretary will fund under this competition only applications that meet one or both of these absolute priorities.

Supplementary Information: It is the policy of the Department of Education not to solicit applications before the publication of a notice of final priorities. However, in this case it is essential to solicit applications on the basis of the notice of proposed priorities for this program as published in the **Federal Register** on February 8, 1990 (55 FR 4465) because the Department's authority to obligate these funds will expire on September 30, 1990.

In response to the Secretary's notice of proposed funding priorities for FY 1990, nine parties submitted comments. All but one comment were favorable. Among those comments favoring the priorities were many suggestions for specific program design elements, such as the development of an individualized curriculum as a guide for non-professionals and a recommendation for an in-depth evaluation component. Others recommended that all students in a project be afforded the opportunity to serve as tutors, that projects be conducted as controls in more affluent attendance areas, and that migratory children and military dependents not be overlooked as participants. These recommendations can be incorporated into applications as part of a proposed project's design.

The one commenter who did not favor the establishment of these priorities recommended that the priorities be redrafted to require that projects include a strong, professionally directed instructional program in reading, in which peer tutoring or mentoring could be allowable components. The Secretary agrees that a successful basic skills project funded under this program would be likely to include a strong instructional program in reading. It is, therefore, not necessary to include such a requirement in establishing funding priorities. It will be up to applicants to decide on the curriculum content that will best meet the needs of their students. The purpose of establishing these priorities is to determine the effectiveness of the two techniques—mentoring and peer tutoring—in raising the basic skills levels of secondary school students.

Based on the comments received, the Secretary does not anticipate making any changes in the final priorities. However, if any substantive changes are made in the notice of final priorities, applicants will be given an opportunity to revise or resubmit their applications.

Selection Criteria

(a)(1) The Secretary uses the following selection criteria to evaluate applications for new grants under this competition.

(2) The maximum score for all of these criteria is 100 points.

(3) The maximum score for each criterion is indicated in parentheses.

(b) *The criteria.*—(1) *Meeting the purposes of the authorizing statute.* (30 points) The Secretary reviews each application to determine how well the project will meet the purpose of the authorizing statute—part B of title VI of the Elementary and Secondary Education Act of 1965, as amended, including consideration of—

(i) The objectives of the project; and

(ii) How the objectives of the project further the purposes of the authorizing statute.

(2) *Extent of need for the project.* (25 points) The Secretary reviews each application to determine the extent to which the project meets specific needs recognized in the authorizing statute—including consideration of—

(i) The needs addressed by the project;

(ii) How the applicant identified those needs;

(iii) How those needs will be met by the project; and

(iv) The benefits to be gained by meeting those needs.

(3) *Plan of operation.* (25 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(i) The quality of the design of the project;

(ii) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(iii) How well the objectives of the project relate to the purpose of the program;

(iv) The quality of the applicant's plan to use its resources and personnel to achieve each objective;

(v) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition; and

(vi) For grants under a program that requires the applicant to provide an opportunity for participation of students enrolled in private schools, the quality of the applicant's plan to provide that opportunity.

(4) *Quality of key personnel.* (7 points)

(i) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(A) The qualifications of the project director (if one is to be used);

(B) The qualifications of each of the other key personnel to be used in the project;

(C) The time that each person referred to in paragraphs (b)(4)(i) (A) and (B) will commit to the project; and

(D) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(ii) To determine personnel qualifications under paragraphs (b)(4)(i) (A) and (B), the Secretary considers—

(A) Experience and training in fields related to the objectives of the project; and

(B) Any other qualifications that pertain to the quality of the project.

(5) *Budget and cost effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which—

(i) The budget is adequate to support the project; and

(ii) Costs are reasonable in relation to the objectives of the project.

(6) *Evaluation plan.* (5 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(i) Are appropriate to the project; and

(ii) To the extent possible, are objective and produce data that are quantifiable.

(Cross-reference: See 34 CFR 75.590 Evaluation by the grantee.)

(7) *Adequacy of resources.* (3 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the Single Point of Contact for each State and follow the procedure established in those States under the Executive order. If you want to know the name and address of any State Single Point of Contact, see the list published in the **Federal Register** on November 18, 1987, pages 44338–44340.

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372–CFDA 84.227, U.S. Department of Education, MS 6403, 400 Maryland Avenue, SW., Washington, DC 20202–0125. Proof of mailing will be determined on the same basis as applications.

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant shall—

(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 #84.227), 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 the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.227), Room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC.

(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) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 732–2495.

(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 Instructions and Forms

The appendix to this application is divided into three parts plus a statement regarding estimated public reporting burden and various assurances and certifications. These parts and additional materials are organized in the same manner that the submitted application should be organized. The parts and additional materials are as follows:

Part I

Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

Part II

Budget Information—Non-Construction Programs (Standard Form 424A) and instructions.

Part III

Application Narrative.

Additional Materials

Estimated Public Reporting Burden.

Assurances—Non-Construction Programs (Standard Form 424B).

Certification regarding Debarment, Suspension, and Other Responsibility Matters: Primary Covered Transactions (ED Form GCS–008) and instructions.

Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form GCS–009) and instructions. (Note: ED Form GCS–009 is intended for the use of grantees and should not be transmitted to the Department.)

Certification Regarding Drug-Free Workplace Requirements: Grantees Other than Individuals (ED 80–0004).

Certification Regarding Drug-Free Workplace Requirements: Grantees Who Are Individuals (ED 80–0005).

Certification Regarding Lobbying for Grants and Cooperative Agreements (ED 80–0008). (Note: This form is required if requesting, making, or entering into a grant or cooperative agreement for more than $100,000.)

Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions; and Disclosure of 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 Further Information Contact: Mr. Brian Stacey, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue SW. (room 2043), Washington, DC 20202–6132; (202) 732–4733.

Program Authority: Elementary and Secondary Education Act of 1965, part B of title VI.

Dated: April 9, 1990.

John T. MacDonald,

Assistant Secretary for Elementary and Secondary Education.

BILLING CODE 4000–01–M

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED	Applicant Identifier
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

1. TYPE OF SUBMISSION:

Application	Preapplication
☐ Construction	☐ Construction
☒ Non-Construction	☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, state, and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:

☒ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

_____

9. NAME OF FEDERAL AGENCY:

U.S. Department of Education

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 8 4 . 2 2 7

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission

Item: Entry:

1 Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

— "New" means a new assistance award.

— "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.

— "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9 Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11 Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

SF 424 (REV 4-88) Back

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (4-88)
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SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

SF 424A (4-88) Page 2
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INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A,B,C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A,B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary
Lines 1-4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

Lines 1-4, Columns (c) through (g.) (continued)

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 — Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i — Show the totals of Lines 6a to 6h in each column.

Line 6j – Show the amount of indirect cost.

Line 6k – Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

INSTRUCTIONS FOR THE SF-424A *(continued)*

Line 7 – Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8-11 – Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) – Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) – Enter the contribution to be made by the applicant.

Column (c) – Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) – Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) – Enter totals of Columns (b), (c), and (d).

Line 12 — Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 – Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 – Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 – Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 - 19 – Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 – Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 – Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 – Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 – Provide any other explanations or comments deemed necessary.

Instructions for Part III—Application Narrative

Before preparing the Application Narrative, an applicant should read carefully the description of the program, the information regarding priorities, and the selection criteria the Secretary uses to evaluate applications.

The narrative should encompass each function or activity for which funds are being requested and should be presented in the following sequence—

1. Begin with an abstract; that is, a summary of the proposed project;

2. Describe the plan of operation including the eleven items in the order listed under the "Applications" section of this notice, as required by title VI, part B, section 6106 of Public Law 100–297. The requirement in the eleventh item may be satisfied by appropriate designation in the object class categories section of the SF–424A, section B.

3. Describe the proposed project in light of each of the selection criteria in the order in which the criteria are listed in this application package; and

4. Include any other pertinent information that might assist the Secretary in reviewing the application.

Please limit the Application Narrative to no more than 15 doubled-spaced, typed pages (on one side only).

Estimated Public Reporting Burden

Under terms of the Paperwork Reduction Act of 1980, as amended, and the regulations implementing that Act, the Department of Education invites comment on the public reporting burden in this collection of information. Public reporting burden for this collection of information is estimated to average 20 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. You may 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, DC 20202–4651; and to the Office of Management and Budget, Paperwork Reduction Project 1810–0547, Washington, DC 20503.

Information collection approved under OMB control number 1810–0547. Expiration date: 9–30–90.

BILLING CODE 4000–01–M

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of 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 nineteen 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 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.

Standard Form 424B (4-88)
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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 andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

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

Certification Regarding Debarment, Suspension, and Other Responsibility Matters Primary Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, Section 85.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations may be obtained by contacting the U.S. Department of Education, Grants and Contracts Service, 400 Maryland Avenue, S.W. (Room 3633 GSA Regional Office Building No. 3), Washington, D.C. 20202-4725, telephone (202) 732-2505.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Organization Name PR/Award Number or Project Name

Name and Title of Authorized Representative

Signature Date

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion–Lower Tier Covered Transactions," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not 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.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding
Debarment, Suspension, Ineligibility and Voluntary Exclusion
Lower Tier Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, Section 85.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations may be obtained by contacting the person to which this proposal is submitted.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

(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.

Organization Name PR/Award Number or Project Name

Name and Title of Authorized Representative

Signature Date

ED Form GCS-009, (REV. 12/88)

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 Regarding Drug-Free Workplace Requirements Grantees Other Than Individuals

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988, 34 CFR Part 85, Subpart F. The regulations, published in the January 31, 1989 Federal Register, require certification by grantees, prior to award, that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the agency determines to award the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment (see 34 CFR Part 85, Sections 85.615 and 85.620).

The grantee certifies that it will 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 a 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 of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

(e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;

(f) Taking one of the following actions, within 30 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; 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).

Organization Name PR/Award Number or Project Name

Name and Title of Authorized Representative

Signature Date

ED 80-0004

Certification Regarding Lobbying For Grants and Cooperative Agreements

Submission of this certification is required by Section 1352, Title 31 of the U.S. Code and is a prerequisite for making or entering into a grant or cooperative agreement over $100,000.

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of 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.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, 'Disclosure Form to Report Lobbying,' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact on which the Department of Education relied when it made or entered into this grant or cooperative agreement. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Organization Name

PR/Award (or Application) Number or Project Name

Name and Title of Authorized Representative

Signature

Date

ED 80-0008 12/89

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
☐ 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 Entity *(if individual, last name, first name, MI)*:

b. Individuals Performing Services *(including address if different from No. 10a)* *(last name, first name, MI)*:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply)*:
$ _____ ☐ actual ☐ planned

12. Form of Payment *(check all that apply)*:
☐ a. cash
☐ b. in-kind; specify: nature _____
value _____

13. Type of Payment *(check all that apply)*:
☐ a. retainer
☐ b. one-time fee
☐ c. commission
☐ d. contingent fee
☐ e. deferred
☐ f. other; specify: _____

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ Date: _____

Federal Use Only:

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Standard Form - LLL

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. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. 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; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include 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 entity 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. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 mintues 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, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: _____ **Page** _____ **of** _____

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Standard Form - LLL-A

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federal register

Monday
April 16, 1990

Part III

Department of Education

Applications for New Awards Under Certain Vocational Education Direct Grants Programs for Fiscal Year 1991; Notice

DEPARTMENT OF EDUCATION

Office of Vocational and Adult Education

(CFDA No.: 84.077, 84.099, 84.193)

Notice Inviting Applications For New Awards Under Certain Vocational Education Direct Grant Programs for Fiscal Year (FY) 1991

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and applicable regulations governing the program, including the Education Department General Administrative Regulations (EDGAR), the notice contains information, application forms, and instructions needed to apply for a grant under the following competitions:

(a) Bilingual Vocational Training Program (CFDA No. 84.077).

(b) Bilingual Vocational Instructor Training Program (CFDA No. 84.099).

(c) Demonstration Centers for the Retraining of Dislocated Workers Program (CFDA No. 84.193).

NEW AWARDS UNDER CERTAIN VOCATIONAL EDUCATION DIRECT GRANT PROGRAMS

Title and CFDA Number	Deadline for transmittal of applications	Deadline for intergovern-mental review	Available funds (dollars)	Estimated range of awards	Estimated average size of awards (dollars)	Estimated number of awards (dollars)	Project period in months
Bilingual vocational training (CFDA No. 84.077).	Sept. 4, 1990	Nov. 5, 1990	$2,219,250	$150,000 to $350,000	$277,406	8	Up to 24 months.
Bilingual vocational instructor training program (CFDA No. 84.099).	Sept. 4, 1990	Nov. 5, 1990	443,850	$130,000 to $400,000	221,925	2	Up to 18 months.
Demonstration centers for the retraining of dislocated workers program (CFDA No. 84.193).	Sept. 6, 1990	Nov. 6, 1990	493,000	$493,000	493,000	1	Up to 24 months.

Note: The Department is not bound by any estimates in this notice.

Additional Programmatic Details

Bilingual Vocational Training Program

Purpose of Program: The Bilingual Vocational Training Program provides financial assistance for bilingual vocational education and training for individuals with limited English proficiency to prepare these individuals for jobs in recognized occupations and in new and emerging occupations in an English-speaking environment.

Eligible Applicants: State agencies, local educational agencies, postsecondary educational institutions, private nonprofit vocational training institutions, or other nonprofit organizations specially created to serve individuals who normally use a language other than English.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants to Institutions of Higher Education, Hospitals and Nonprofit Organizations), Part 75 (Direct Grant Programs), Part 77 (Definitions That Apply to Department Regulations), Part 79 (Intergovernmental Review of Department of Education Programs and Activities), Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), Part 81 (General Education Provisions Act—Enforcement), Part 82 (New Restrictions on Lobbying), and Part 85 (Government-Wide Debarment and Suspension (Nonprocurement) and Government-Wide Requirements for a Drug-Free Workplace (Grants)); and (b) The regulations for this program in 34 CFR parts 400 and 407.

Selection Criteria

The Secretary uses the following selection criteria to evaluate applications for new grants under this competition. The maximum score for all of these criteria is 100 points. The maximum score for each criterion is indicated in parentheses. The Secretary assigns the fifteen points, reserved in 34 CFR 407.30(b), as follows: 15 points to selection criterion (c)—Program factors—in 34 CFR 407.31(c) for a total of 25 points for that criterion.

(a) *Need.* (20 points)

(1) The Secretary reviews each application for specific information that shows the need for the proposed training in the local geographic area.

(2) The Secretary looks for information that shows—

(i) The need for the proposed project including—

(A) The employment need to be met;

(B) How that employment need will be met; and

(C) Where appropriate, ongoing and planned activities in the community that pertain to that employment need; and

(ii) The relationship of the project to any appropriate economic development plan.

(b) *Plan of operation.* (10 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that ensures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(c) *Program factors.* (20 points)

(1) The Secretary reviews each application for information that shows the applicant's understanding of key program factors.

(2) The Secretary looks for information that shows—

(i) An understanding of the key methodologies and techniques used in bilingual vocational training such as—

(A) Providing training and instruction in English and the native languages of the trainees;

(B) Providing job-related English-as-a-second language instruction;

(C) Coordinating job-related English-as-a-second language instruction with the occupational training; or

(D) Providing training and guidance to prepare trainees for working in an English language environment;

(ii) Procedures for recruiting persons with limited English proficiency who are in the greatest need for bilingual vocational training;

(iii) Procedures for evaluating the skills and needs of trainees;

(iv) An understanding of the importance of appropriate counseling and follow-up activities with former trainees;

(v) That the training will provide opportunities for employment in jobs that have potential for career advancement or opportunities for entrepreneurship; and

(vi) That the project will be coordinated with the State board or agency designated or established under section 111 of the Carl D. Perkins Vocational Education Act.

(d) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraph (d)(2) (i) and (ii) will commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(e) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation plan.* (10 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

Cross-Reference: See 34 CFR 75.590 (Evaluation by the grantee).

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(g) *Adequacy of resources.* (5 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(h) *Private sector involvement.* (5 points)

(1) The Secretary reviews each application for information that shows the involvement of the private sector.

(2) The Secretary looks for information that shows—

(i) Private sector involvement in the planning of the project; and

(ii) Private sector involvement in the operation of the project.

(i) *Employment opportunities.* (10 points) The Secretary looks for information and documentation of the extent to which, upon the completion of their training under this program, more than 65 percent of the trainees will be employed in jobs (including military specialties) related to their training, or will be pursuing additional training related to their training under this program.

(Approved under OMB Control No. 1830–0013)

Additional Factors

(a) After evaluating the applications according to the selection criteria, and consulting with the appropriate State board, the Secretary determines whether the most highly rated applications are equitably distributed among populations of individuals with limited English proficiency within the affected State.

(b) The Secretary may select other applications for funding if doing so would improve the equitable distribution of projects under this program within the affected State.

For Further Information Contact: Laura Karl, Special Programs Branch, Division of National Programs, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 4512, Mary E. Switzer Building), Washington, DC 20202–7242. Telephone (202) 732–2365.

Program Authority: 20 U.S.C. 2441(a).

Bilingual Vocational Instructor Training Program

Purpose of Program: The Bilingual Vocational Instructor Training Program provides financial assistance for conducting training for instructors, aides, counselors, or other ancillary personnel in bilingual vocational education and training programs for individuals with limited English proficiency.

Eligible Applicants: State agencies or public and private nonprofit educational institutions.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants to Institutions of Higher Education, Hospitals and Nonprofit Organizations), Part 75 (Direct Grant Programs), Part 77 (Definitions that Apply to Department Regulations), Part 79 (Intergovernmental Review of Department of Education Programs and Activities), Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), Part 81 (General Education Provisions Act—Enforcement), Part 82 (New Restrictions on Lobbying), and Part 85 (Government-wide Debarment and Suspension (Nonprocurement) and Government-Wide Requirements for Drug-Free Workplace (Grants)); and (b) The regulations for this program in 34 CFR Parts 400 and 408.

Invitational Priority

The Secretary is particularly interested in applications that meet the following invitational priority:

Applications that address a national or statewide need for inservice training for personnel in bilingual vocational education and training programs for individuals with limited English proficiency.

However, under 34 CFR 75.105(c)(1) an application that meets this invitational

priority does not receive competitive or absolute preference over other applications.

Selection Criteria

The Secretary uses the following selection criteria to evaluate applications for new grants under this competition. The maximum score for all of these criteria is 100 points. The maximum score for each criterion is indicated in parentheses. The Secretary assigns the fifteen points, reserved in 34 CFR 408.30(b), as follows: 10 points to selection criterion (b)—Plan of Operation—in 34 CFR 408.31(b) for a total of 30 points for that criterion; and 5 points to selection criterion (c)—Quality of Key Personnel—in 34 CFR 408.31(c) for a total of 25 points for that criterion.

(a) *Need.* (20 points)

(1) The Secretary reviews each application for specific information that shows the need for the proposed training in the local geographic area.

(2) In making this determination the Secretary looks for information that shows—

(i) The need for the proposed training;

(ii) Specifically how the need will be met; and

(iii) Ongoing and planned activities in the community that pertain to the need, where appropriate.

(b) *Plan of operation.* (30 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that ensures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(c) *Quality of key personnel.* (25 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraph (c)(2)(i) and (ii) will commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(d) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(e) *Evaluation plan.* (10 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

Cross-Reference: See 34 CFR 75.590 (Evaluation by the grantee).

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(f) *Adequacy of resources.* (5 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(Approved under OMB Control No. 1830–0013)

Additional Factors

(a) After evaluating the applications according to the selection criteria, and consulting with the appropriate State board, the Secretary determines whether the most highly rated applications are equitably distributed among populations of individuals with limited English proficiency within the affected State.

(b) The Secretary may select other applications for funding if doing so would improve the equitable distribution of projects under this program within the affected State.

For Further Information Contact: Laura Karl, Special Programs Branch, Division of National Programs, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue, SW., (room 4512, Mary E. Switzer Building), Washington, DC 20202–7242. Telephone (202) 732–2365.

Program Authority: 20 U.S.C. 2441(b)

Demonstration Centers for the Retraining of Dislocated Workers Program

Purpose of Program: The Demonstration Centers for Retraining Dislocated Workers Program provides financial assistance to establish one or more demonstration centers to retrain dislocated workers in order to demonstrate the applicability of general theories of vocational education to specific problems of retraining displaced workers.

Eligible Applicants: Public or private agencies, institutions, or organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals and Nonprofit Organizations), part 75 (Direct Grant Programs), part 77 (Definitions that Apply to Department Regulations), part 79 (Intergovernmental Review of Department of Education Programs and Activities), part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), part 81 (General Education Provisions Act—Enforcement), part 82 (New Restrictions on Lobbying), and part 85 (Government-wide Debarment and Suspension (Nonprocurement) and Government-Wide Requirements for Drug-Free Workplace (Grants)); and (b). The regulations for this program are in 34 CFR parts 400 and 411.

Invitational Priority

The Secretary is particularly interested in applications that meet the following invitational priority:

Applications from community colleges having existing dislocated worker training programs for a project to establish and operate a demonstration center for the retraining of dislocated workers in which there is significant State, local, and/or private sector involvement, commitment, and support, and for which materials describing the establishment and operation of the project will be prepared, as appropriate, for dissemination to other dislocated worker training centers.

However, under 34 CFR 75.105(c)(1), an application that meets this invitational priority does not receive competitive or absolute preference over other applications.

Selection Criteria

The Secretary uses the following selection criteria to evaluate applications for new grants under this competition. The maximum score for all of these criteria is 100 points. The maximum score for each criterion is indicated in parentheses. The Secretary assigns the fifteen points, reserved in 34 CFR 411.30(b), as follows: 5 points to selection criterion (b)—Plan of Operation—in 34 CFR 411.31(b) for a total of 20 points for that criterion; 5 points to selection criterion (c)—Quality of Training—in 34 CFR 411.31(c) for a total of 10 points for that criterion; and 5 points to selection criterion (f)—Evaluation Plan—in 34 CFR 411.31(f) for a total of 10 points for that criterion.

(a) *Need.* (15 points)

(1) The Secretary reviews each application for information that shows the need for the proposed demonstration center.

(2) The Secretary looks for information that shows—

(i) Specific evidence of the need for the proposed demonstration center, including evidence of a high concentration of dislocated workers in the area to be served;

(ii) How the need will be met; and

(iii) Ongoing and planned activities in the community pertaining to the proposed demonstration center, where appropriate.

(b) *Plan of operation.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that ensures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(c) *Quality of training.* (10 points)

(1) The Secretary reviews each application for information that shows the quality of the training to be provided.

(2) The Secretary looks for information that shows that—

(i) The training is appropriate for the trainees in light of the labor market; and

(ii) Trainees will receive appropriate counseling.

(d) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraph (d)(2)(i) and (ii) will commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project; as well as other information that the applicant provides.

(e) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(f) *Evaluation plan.* (10 points)

The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

Cross-Reference: See 34 CFR 75.590 (Evaluation by the grantee).

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(g) *Adequacy of resources.* (5 points)

(1) The Secretary reviews each application for information that shows the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(h) *Private sector involvement.* (5 points)

(1) The Secretary reviews each application for information that shows the involvement of the private sector.

(2) The Secretary looks for information that shows—

(i) The private sector involvement in the planning of the project; and

(ii) The private sector involvement in the operation of the project.

(i) *Employment opportunities.* (5 points) The Secretary looks for information on and documentation of the extent to which trainees will be employed in jobs related to their training upon completions of their training.

(j) *Dissemination.* (10 points)

(1) The Secretary reviews each application for information that shows that the applicant has an effective and efficient plan for disseminating information about the project, including the results of the project and any specialized materials developed by the project.

(2) The Secretary looks for information that shows—

(i) The design of the dissemination plan and procedures for evaluating the effectiveness of the dissemination plan;

(ii) A description of the types of materials the applicant plans to make available and the methods for making the materials available;

(iii) Provisions for demonstrating the methods and techniques used by the project;

(iv) Provisions for assisting others to adopt and successfully implement the project or methods and techniques developed by the project; and

(v) Provisions for publicizing the findings of the project at the local, State, or national level.

(Approved under OMB Control No. 1830–0013)

FOR FURTHER INFORMATION CONTACT: Paul R. Geib, Jr., Special Programs Branch, Division of National Programs, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 4512, Mary E. Switzer Building), Washington, DC 20202–7242. Telephone (202) 732–2364.

Program Authority: 20 U.S.C. 2415

Intergovernmental Review of Federal Programs

These programs are subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive Order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive Order. If you want to know the name and address of any State Single Point of Contact, see the list published in the **Federal Register** on September 15, 1989, pages 38342–38343.

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA# (applicant must insert the appropriate number), U.S. Department of Education, Room 4161, 400 Maryland Avenue, SW., Washington, DC 20202–0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in this notice.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. Do not send applications to the above address.

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant shall—

(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 the appropriate number), Washington, DC 20202–4725.

or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, DC time) on the deadline date to: U.S. Department of Education, Application Control Center, Attention: CFDA# (Applicant must insert the appropriate number), Room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC 20202–4725.

(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) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 732–2495.

(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 of the competition under which the application is being submitted.

Application Instructions and Forms

The appendix to this consolidated application notice is divided into three parts plus a statement regarding estimated public reporting burden and various assurances and certifications. These parts and additional materials are organized in the same manner that the submitted application should be organized. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

Part II: Budget Information—Non-Construction Programs (Standard Form 424A) and instructions.

Part III: Application Narrative.

Additional Materials

Estimated Public Reporting Burden.

Assurances—Non-Construction Programs (Standard Form 424B).

Certification Regarding Debarment, Suspension, and Other Responsibility Matters: Primary Covered Transactions (ED Form GCS–008) and instructions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form GCS–009) and instructions. (*Note:* ED Form GCS–009 is intended for the use of grantees and should not be transmitted to the Department.)

Certification Regarding Drug-Free Workplace Requirements: Grantees Other Than Individuals (ED 80–0004).

Certification Regarding Lobbying for Grants and Cooperative Agreements (ED 80–0008). (*Note:* This form is required if requesting, making, or entering into a grant or cooperative agreement for more than $100,000.)

Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions, and Disclosure of 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.

Dated: March 13, 1990.

Betsy Brand,

Assistant Secretary, Office of Vocational and Adult Education.

Appendix A

BILLING CODE 4000-01-M

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED		Applicant Identifier
3. DATE RECEIVED BY STATE		State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY		Federal Identifier

1. TYPE OF SUBMISSION:

Application	Preapplication
☐ Construction	☐ Construction
☒ Non-Construction	☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name	Organizational Unit:
Address *(give city, county, state, and zip code)*:	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:

☒ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

U.S. Department of Education

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 8 4 . ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*

13. PROPOSED PROJECT:

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b. NO ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY (1)	(2)	(3)	(4)	Total (5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

BILLING CODE 4000-01-C

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

SF 424A (4-88) Page 2
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PART II—BUDGET INFORMATION

Instructions for the SF–424A

General Instructions

This form is designed so that application can be made for funds from any one of the grant programs included in this consolidated application package. For the Bilingual Vocational Instructor Training Program (CFDA No. 84.099), Sections A, B, and C should include budget estimates for the entire project period. For the Bilingual Vocational Training Program (CFDA No. 84.077) and the Demonstration Centers for the Retraining of Dislocated Workers Program (CFDA No. 84.193), Sections A, B and C should provide the budget for the first year of the project and Section E should present the need for Federal assistance in subsequent years. (Note: Section D need not be completed to apply for these programs. All applications should contain a breakdown by the object class categories shown in Section B, Lines 6a through 6j.

Section A. Budget Summary

Line 1, Columns (a) through (g)—Enter on Line 1 the catalog program title in Column (a) and the catalog program number in Column (b). Leave Columns (c) and (d) blank. Enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for either the entire project period or the first year of the project, as appropriate.

Section B. Budget Categories

Lines 6a through 6i—Fill in the total requirements for Federal funds by object class categories for either the entire project period or the first year of the project, as appropriate.

Line 6a—Personnel: Show salaries and wages to be paid to personnel employed in the project. Fees and expenses for consultants must be included in Line 6f.

Line 6b—Fringe Benefits: Include contributions for Social Security, employee insurance, pension plans, etc. Leave blank if fringe benefits to personnel are treated as part of the indirect cost rate.

Line 6c—Travel: Indicate the amount requested for travel of employees.

Line 6d—Equipment: Indicate the cost of nonexpendable personal property which has a useful life of more than two years and an acquisition cost of $300 or more per unit.

Line 6e—Supplies: Include the cost of consumable supplies to be used in this project. These should be items which cost less than $300 per unit with a useful life of less than two years.

Line 6f—Contractual: Show the amount to be used for: (a) procurement contracts (except those which belong on other lines such as supplies and equipment listed above); and (b) sub-grants or payments for consultants and secondary recipient organizations such as affiliates, cooperating institutions, delegate agencies, etc.

Line 6g—Construction: Construction expenses generally are not allowed.

Line 6h—Other: Indicate all direct costs not clearly covered by lines 6a through 6g. If there are trainee costs or stipends, enter the total cost of these expenses. The maximum allowance for stipends is $3.35 per contact hour.

Line 6i—Total Direct Charges: Show total of Lines 6a through 6h.

Line 6j—Show the amount of indirect cost to be charged to the project.

Note: The indirect cost rate for training projects cannot exceed eight percent of total direct charges.

Line 6k—Enter the total of the amounts on Lines 6i and 6j.

Section C. Non-Federal Resources

Line 8—Enter any amounts of non-Federal resources that will be used on the grant. If any in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the catalog program title.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter the totals of Columns (b), (c), and (d).

Section E—Budget Estimates of Federal Funds Needed for Balance of the Project (Note: This section applies only to the Bilingual Vocational Training Program and the Demonstration Centers for the Retraining of Dislocated Workers Program.)

Line 16—Enter in Column (a) the catalog program title. In Columns (b) and (c), as appropriate, enter the amounts of Federal funds which will be needed to complete the project over the succeeding funding period(s) (usually in years).

Section F. Other Budget Information

Prepare a detailed Budget Narrative that explains, justifies, and/or clarifies the budget figures shown in Sections A, B, C, and E.

Instructions for Part III—Application Narrative

All applicants are urged to submit Application Narratives that are concise and clearly written. Before preparing the Application Narrative, an applicant should read carefully the description of the program, the information regarding the invitational priority, if any, and the selection criteria the Secretary uses to evaluate applications.

The narrative should encompass each function or activity for which funds are being requested and should—

1. Begin with an Abstract; that is, a summary of the proposed project;

2. Describe the proposed project in light of each of the selection criteria in the order in which the criteria are listed in this application package; and

3. Include any other pertinent information that might assist the Secretary in reviewing the application.

Please limit the Application Narrative to no more than 30 double-spaced, typed, 8½" x 11" pages (on one side only).

Include as an appendix to the Application Narrative supporting documentation, also on 8½" x 11" paper, (e.g., letters of support, footnotes, resumes, etc.) or any other pertinent information that might assist the Secretary in reviewing the application.

Applicants are advised that:

(1) Under Section 75.217 of the Education Department General Administrative Regulations (EDGAR), the Department considers only information contained in the application in ranking applications for funding consideration. Letters of support sent separately from the formal application package are not considered in the review by the technical review panels.

(2) In reviewing applications, the technical review panel evaluates each application solely on the basis of the established technical review criteria. Letters of support contained in the application will strengthen the application only insofar as they contain commitments which pertain to the established technical review criteria, such as commitment of resources and placement of successful completers.

Instructions for Estimated Public Reporting Burden

Under terms of the Paperwork Reduction Act of 1980, as amended, and the regulations implementing that Act, the Department of Education invites comment on the public reporting burden in these collections of information. Public reporting burden for these collections of information is estimated

to average 20 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. You may send comments regarding this burden to the U.S. Department of Education, Information Management and Compliance Division, Washington, DC 20202–4651; and to the Office of Management and Budget, Paperwork Reduction Project, OMB (applicant must insert OMB control number; see list below), Washington, DC 20503.

CFDA No.	OMB control No.	Expiration date
84.077	1830–0013	03/91
84.099	1830–0013	03/91
84.193	1830–0013	03/91

BILLING CODE 4000–01–M

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of 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 nineteen 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 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

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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 andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

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

Certification Regarding Debarment, Suspension, and Other Responsibility Matters Primary Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, Section 85.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations may be obtained by contacting the U.S. Department of Education, Grants and Contracts Service, 400 Maryland Avenue, S.W. (Room 3633 GSA Regional Office Building No. 3), Washington, D.C. 20202-4725, telephone (202) 732-2505.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Organization Name PR/Award Number or Project Name

Name and Title of Authorized Representative

Signature Date

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not 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.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, Section 85.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations may be obtained by contacting the person to which this proposal is submitted.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

(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.

Organization Name PR/Award Number or Project Name

Name and Title of Authorized Representative

Signature Date

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 Regarding Drug-Free Workplace Requirements Grantees Other Than Individuals

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988, 34 CFR Part 85, Subpart F. The regulations, published in the January 31, 1989 Federal Register, require certification by grantees, prior to award, that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the agency determines to award the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment (see 34 CFR Part 85, Sections 85.615 and 85.620).

The grantee certifies that it will 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 a 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 of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

(e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;

(f) Taking one of the following actions, within 30 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; 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).

Organization Name PR/Award Number or Project Name

Name and Title of Authorized Representative

Signature Date

ED 80-0004

Certification Regarding Drug-Free Workplace Requirements

Grantees Who Are Individuals

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988, 34 CFR Part 85, Subpart F. The regulations, published in the January 31, 1989 Federal Register, require certification by grantees, prior to award, that their conduct of grant activity will be drug-free. The certification set out below is a material representation of fact upon which reliance will be placed when the agency determines to award the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment (see 34 CFR Part 85, Sections 85.615 and 85.620).

The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance in conducting any activity with the grant.

Organization Name (As Appropriate) PR/Award Number or Project Name

Printed Name

Signature Date

ED 80-0005

Certification Regarding Lobbying For Grants and Cooperative Agreements

Submission of this certification is required by Section 1352, Title 31 of the U.S. Code and is a prerequisite for making or entering into a grant or cooperative agreement over $100,000.

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of 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.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, 'Disclosure Form to Report Lobbying,' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact on which the Department of Education relied when it made or entered into this grant or cooperative agreement. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Organization Name

PR/Award (or Application) Number or Project Name

Name and Title of Authorized Representative

Signature

Date

ED 80-0008

12/89

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
☐ 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 Entity
(if individual, last name, first name, MI):

b. Individuals Performing Services *(including address if different from No. 10a)*
(last name, first name, MI):

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply)*:
$ _____ ☐ actual ☐ planned

12. Form of Payment *(check all that apply)*:
☐ a. cash
☐ b. in-kind; specify: nature _____
value _____

13. Type of Payment *(check all that apply)*:
☐ a. retainer
☐ b. one-time fee
☐ c. commission
☐ d. contingent fee
☐ e. deferred
☐ f. other; specify: _____

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ **Date:** _____

Federal Use Only:

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Standard Form - LLL

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: _____ Page _____ of _____

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Standard Form - LLL-A

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. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. 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; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include 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 entity 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. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 mintues 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, D.C. 20503.

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federal register

Monday
April 16, 1990

Part IV

Environmental Protection Agency

40 CFR Part 373

Reporting Hazardous Substance Activity When Selling or Transferring Federal Real Property; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 373

[SWH FRL-3383-9]

Reporting Hazardous Substance Activity When Selling or Transferring Federal Real Property

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is today promulgating regulations in response to requirements established by section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99–499). Under section 120(h), whenever any agency, department, or instrumentality of the United States enters into any contract for the sale or other transfer of real property which is owned by the United States, and on which any hazardous substance was stored for one year or more, known to have been released, or disposed of, the contract must include notice of the type and quantity of such hazardous substance, and the time at which such storage, release, or disposal took place. EPA is to prescribe the form and manner of such notice. Today's final rule defines when these requirements apply, and prescribes the form and manner of notice, as required by section 120(h).

EFFECTIVE DATE: This final rule is effective October 17, 1990. These regulations and other requirements of section 120(h) of the Act apply to real property owned by the United States that is sold or transferred after October 16, 1990.

ADDRESSES: The official record for this rulemaking is identified as Docket Number 120FP–TR and is located in the EPA Superfund Docket Room (LG 100), 401 M Street, SW., Washington, DC 20460. The docket is open from 9 a.m. to 4 p.m. Monday through Friday except for public holidays. To review docket materials, make an appointment by calling 202–382–3046. The public may obtain copies of docket materials as provided for in 40 CFR part 2. A fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA/CERCLA Hotline at 1–800–424–9346 (toll-free) or in the Washington Metropolitan Area at 202–382–3000. For information on specific aspects of this final rule, contact the Office of Waste Programs Enforcement (OS–510), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, 202–475–6770.

SUPPLEMENTARY INFORMATION:

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I. Introduction

A. Statutory Authority

The Superfund Amendments and Reauthorization Act (SARA), Public Law 99–499, amended the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. section 9601 *et seq.* SARA added section 120(h)(1) of CERCLA which states that

> * * * whenever any department, agency, or instrumentality of the United States enters into any contract for the sale or other transfer of real property which is owned by the United States and on which any hazardous substance was stored for one year or more, known to be released, or disposed of, the head of such department, agency, or instrumentality shall include in such contract notice of the type and quantity of such hazardous substance and notice of the time at which such storage, release, or disposal took place, to the extent such information is available on the basis of a complete search of agency files.

Section 120(h)(2) requires the Environmental Protection Agency (EPA) to promulgate regulations specifying the form and manner of such notice no later than 18 months after enactment of SARA. The notice is required for U.S. property, as described below in further detail, that is sold or transferred six months after the effective date of the regulation.

On January 13, 1988, EPA published proposed rules that would implement the notice requirements of section 120(h)(1).

B. Interagency Coordination

The statute specifies that EPA is to develop the notice regulations required by section 120(h)(2) in consultation with the Administrator of the General Services Administration (GSA). The Agency worked closely with GSA in the development of the proposal, and has consulted with GSA throughout the development of this final rule. Additionally, EPA actively solicited information and comment from other potentially affected agencies during the proposal stage, and received a number of comments on the proposed rule.

II. Responses to Major Public Comments on the Proposed Rule

A document summarizing the comments and responses thereto is available in the public docket to this final rule. The major issues raised by the commenters, and the Agency's response to those issues, are discussed below.

A. "Transfer" of Real Property

Section 120(h) of CERCLA states that its requirements apply to the sale or *other transfer* (emphasis added) of real property which is owned by the United States. In the proposed rule, EPA did not define "transfer" but presumed that the term "transfer" in the statute is used pursuant to its definition in the Federal Property Management Regulations (FPMR) found at 41 CFR part 101–47, and that the proposed regulations would apply to agencies undertaking the activity defined therein. Several problems were noted with this definition.

First, several commenters noted that they were unable to find the definition of "transfer" in the FPMR. Second, one commenter stated that since the Agency used the FPMR to define transfer, EPA should also use the FPMR's definition of "real property."

Determining what constitutes a "transfer" of real property is important for implementing the requirements of section 120(h). EPA referred to the FPMR at 41 CFR 101–47.203–2 in order to make sure that federal agencies realized that the proposed regulations applied to transfers of property *between* agencies. EPA believes that, since the statute consistently uses the word "any" as in "whenever *any* department, agency, or instrumentality enters into *any* contract for the sale or transfer of property owned by the United States * * * *each* deed shall contain covenants * * *" it appears clear that the statute and today's rules must apply to federally owned real property sales and transfers between agencies of the United States, between the United States and private parties, and between the United States and state and local governments.

As previously stated, one commenter suggested that "real property" should be

defined pursuant to the definition found in the FPMR at § 101–47.103–12. However, that definition excludes many types of public lands from being considered real property. As discussed above, EPA believes that real property is a broad concept. Using the definition of real property in the FPMR would greatly limit the applicability of section 120(h), and consequently undermine protection of human health and the environment.

In summary, EPA intends that the regulations implementing section 120(h) apply to the sale or transfer of all real property, and that today's final rule applies whenever any agency, department or instrumentality of the United States enters into any contract for the sale or other transfer of real property.

One commenter suggested that grants of easements permanently conveying use, occupancy, and control of real property, and leases with options to buy, be treated as the equivalent of fee simple conveyances. However, another commenter suggested that the requirements of section 120(h)(1) apply only to fee simple conveyances, and not to transfers of property rights such as easements. Still another commenter suggested that the rule implementing section 120(h)(1) not apply to transfers of leases between government agencies.

The questions of whether and to what extent leases and easements should be included among the types of property subject to these regulations was not addressed by EPA in developing the proposed rule. These questions involve a complicated area of real property law, and may be affected by specific deed or lease terms and by state common law. Accordingly, EPA has not addressed these issues in the final rule.

B. Department, Agency, or Instrumentality

Early in the development of the proposed rule, EPA received several informal inquiries regarding whether or not a particular organization was to be considered a department, agency, or instrumentality of the United States and, therefore, subject to the requirements of section 120(h)(1). To clarify this, EPA stated in the proposed rule that, for the purposes of implementing the requirements of section 120(h)(1), "department, agency, or instrumentality of the United States" means those entities or organizations created or chartered by the legislative, executive or judicial branches of the federal government, including those corporations that are chartered by the federal government.

Several organizations commented on the applicability of section 120(h) with regard to their status as "instrumentalities" of the United States. One commenter suggested that, because the term "instrumentality" of the United States is a "term of art" applicable to many entities created by the United States for widely varying purposes, the term must be used with great care in regulatory proceedings to avoid misinterpretation or unintended application to particular circumstances. The commenter also stated that its organization was not a department, agency or instrumentality of the United States within the meaning of section 120 of CERCLA. However, the commenter later stated that EPA itself should not seek to determine by regulation the significant policy and technical issues surrounding the interpretation of section 120(h)(1) with respect to certain federal instrumentalities, including the commenter.

From the above, it appears that the commenter considers itself to be, under certain conditions, an instrumentality of the United States. However, EPA believes that the commenter's status as an instrumentality of the United States is not so flexible as to allow its consideration as such under some circumstances but not under others. Therefore, since the commenter has stated that it is a federal instrumentality, and since the statute clearly states that the requirements of section 120(h) apply to *"any* department, agency, or *instrumentality* of the United States" (emphasis added), EPA believes that the requirements of section 120(h)(1) are applicable to the commenter. However, EPA does agree with the commenter that the precise definition of what is or is not an "instrumentality" of the United States is beyond the scope of today's rule. Rather than attempt such a definition here, EPA has decided to leave this determination to a case-by-case basis. Therefore, the Agency has deleted the definition of "department, agency or instrumentality" from the final rule.

Another commenter stated that, while generally considered an instrumentality of the United States, there are specific differences between itself and other entities of government which show that federal control over its organization is far from complete. While EPA agrees that the examples provided by the commenter illustrate the differences between the commenter's organization and most other federal entities, the Agency believes that this rulemaking is not the appropriate place to make a determination of whether the commenter is or is not an "instrumentality" for the purposes of implementing section 120(h).

In a related comment, the second commenter stated that property acquired by its organization through foreclosure and, therefore, potentially subject to the requirements of section 120(h)(1) when sold, is owned by the corporate instrumentality rather than the United States. Since section 120(h) applies only to property owned by the United States, the commenter believes that property it owns and sells as a corporate instrumentality acting for the United States would not be subject to the requirements of section 120(h)(1).

This comment thus raises the broader question of when and under what conditions property owned by a federal instrumentality is owned by the United States. EPA believes that the resolution of this question involves considerations beyond the scope of today's rule and, therefore, should not be attempted here. EPA expects that existing statutory and case law will be applied in the appropriate circumstances to determine whether property is owned by the United States and therefore subject to this rule.

C. The Concept of Real Property

As noted in II. A. above, EPA received comment on, and has decided not to use, the definition of "real property" found in the FPMR for the purposes of implementing the requirements of section 120(h)(1). Because the law of real property has evolved primarily at the state level, EPA believes it is most appropriate to take into consideration the common law of the state in which the property lies in determining whether a particular ownership right constitutes "real property" for the purposes of this rule. However, as a general guide, EPA notes that the term real property is generally used to "designate both things which are permanent, fixed, and immovable, as lands, and rights arising out of, or connected with, lands; and includes land and whatever is affixed thereto, and rights arising out of, or annexed to or exercisable within or about, the land" (73 C.J.S. *Property* section 16, 1985).

D. Application to Custodial Property

In the preamble to the proposed rule, EPA expressed doubt that Congress intended the notice and covenant requirements of this sub-section to apply to properties obtained by the United States through foreclosure and held in a custodial manner until sale. A number of commenters also argued more broadly that the sub-section should not apply in

a variety of circumstances where the storage, release or disposal occurred before the federal government owned the property. EPA agrees with these commenters in part. and disagrees in part, as discussed below.

EPA believes that the concern of Congress in enacting section 120(h) was with federally owned facilities whose own operations might involve storage, disposal or release of hazardous substances. The types of facilities cited in Congressional discussion of section 120 included military bases, Department of Energy nuclear production facilities, and other civilian installations. Moreover, nothing in the text or legislative history of the statute suggests that Congress meant to require agencies which had not in some manner been responsible for the storage, release or disposal of hazardous substances to unilaterally assume the obligation in section 120(h)(3) of remedying the contamination prior to sale and warranting that contamination that came to light after sale would also be corrected. In addition, section 120(h)(1) requires the notice to contain information about the type and quantity of hazardous substance stored, released, or disposed of, and the time at which such storage, release or disposal took place. It is unlikely that the agency would be expected to have such detailed information with respect to an activity which took place before the agency held the property.

Therefore, it is EPA's belief, in the light of the overall statutory scheme, that section 120(h)(1) was meant to apply where the storage, release, or disposal referred to in the statute occurred during the time the property was owned by the Federal government. It is EPA's view, after considering the comments it has received, that this is a more appropriate interpretation of section 120(h)(1) than its earlier approach (and similar approaches suggested by some commenters) which focused on the manner in which the property was acquired.

The proposed rule contained a specific exemption for small residential properties acquired by foreclosure. As discussed above, EPA now views such an exemption as inappropriate. Moreover, EPA believes that it is inappropriate to include substantive exemptions in the rule itself, because by statute the rule is primarily intended to address the "form and manner" of the notice to be given. Therefore, the rule promulgated today does not contain any such exemptions.

One commenter stated that the proposed exclusion for residential property should extend to all real property, including commercial and industrial real property, that may be acquired by Federal lending agencies through foreclosure or settlement. Specifically, the commenter, which is an organization that makes non-residential loans, recommended that "* * * Federal lending agencies which obtain property through foreclosure or settlement, and then hold that property in a custodial manner until resale, should be exempt from the requirements set forth not only in the proposed regulations, * * * but also in 42 U.S.C. section 9620(h) and, indeed, in all other sections of CERCLA, including 42 U.S.C. 9607(a), which impose obligations and liability upon persons merely because they are deemed to be owners or operators of a facility." In particular, the commenter suggested that the "innocent landowner" defense in 101(35)(A) of CERCLA might exempt federal lending agencies from the notice requirement of section 120(h)(1) as well as from liability under section 107.

EPA does not believe that a generic exemption for commercial or industrial property acquired by foreclosure would be consistent with congressional intent. In EPA's view, the duty to give notice is not a function of the manner in which property was acquired but of what circumstances occur while it is owned by the government. The policy concerns underlying the request for such an exemption would not arise under EPA's interpretation of 120(h)(1) as applying only where storage, release or disposal occurs while the property is owned by the government.

With respect to the commenter's suggestion that liability under 42 U.S.C. 9607 should not extend to property acquired by the government through foreclosure, EPA believes it would be inappropriate to attempt to resolve in today's rulemaking the application of CERCLA provisions other than section 120(h)(1). EPA also notes that the "innocent landowner" defense cited by the commenter contains its own notice requirement at section 101(35)(C), which may be relevant to agencies acquiring previously contaminated property, whether or not they must also give notice under section 120(h)(1).

E. Requirement to Search Agency Files

Several commenters stated that the Agency's proposed definition of a complete search of agency files would impose a significant financial burden on the agencies selling or transferring real property, and would prolong the length of time it takes to sell such property. Additionally, one commenter suggested that EPA did not have the authority to define each agency's responsibilities for conducting the file search. Yet another commenter requested that EPA clarify what was meant by the phrase "obtainable without undue burden" in the definition of a complete search of agency files.

EPA anticipates that federal agencies will make a reasonable and good faith effort to identify potential hazardous substance contamination on federally owned real property. Beyond this general statement, it would be very difficult to reasonably define this term without reference to the myriad of situations under which the different agencies will become subject to the requirements of section 120(h)(1). It is, therefore, difficult to provide an effective yet reasonable framework in the regulation for a complete search. EPA has therefore dropped the definition of "complete search of agency files" from the regulation.

F. Definitions

EPA did not receive any comments on the specific definitions that were proposed for *hazardous substances, storage, release,* and *disposal.* Therefore, the proposed definitions for those terms have been incorporated into today's final rule.

However, one commenter requested clarification on whether or not the notification requirement for section 120(h) applies to asbestos-containing products that are structurally integrated into any buildings that are part of Federal real property that is sold or transferred. While EPA under CERCLA has broad authority to regulate asbestos, defining the circumstances of where that jurisdiction applies goes beyond the scope of today's rule.

Additionally, several comments were received on the proposed quantitative level below which the notice requirement for the storage of hazardous substances would not apply (in other words, the storage trigger), and on the possibility of establishing triggers for release and disposal. These comments are addressed below.

1. Storage Trigger

In the proposed rule, EPA stated that requiring Federal agencies disposing of real property to report on very small quantities of hazardous substances that have been stored on the property would be burdensome and probably would not contribute significantly to the protection of human health and the environment. Additionally, the Agency stated that the storage of hazardous substances is not tantamount to their release and/or disposal and, in turn, may present less of an environmental threat. For various

reasons discussed in the proposal, but especially because generators of 100 kilograms or less per month of hazardous waste are allowed to store up to 1000 kilograms on site, EPA proposed that 1000 kilograms would be an appropriate trigger level for the section 120(h)(1) notice requirement for the storage of hazardous substances.

Several commenters suggested using the reportable quantities (RQs) for CERCLA hazardous substances found at 40 CFR 302.4 as the quantitative level below which the storage of hazardous substances would not require notice under section 120(h).

EPA has considered such an approach, and has adopted it in part in today's final rule. The Agency still maintains that there is a significant difference between the storage and the release of hazardous substances. Because the RQ values are based on the relative degree of hazard presented to human health and the environment when hazardous substances are released, EPA believes that their general use as the trigger for the notification of the storage of hazardous substances would be overly conservative. However, in some instances, the RQ for a particular hazardous substance is well over the proposed 1000 kilogram storage trigger, resulting in situations where the storage of a hazardous substance would require notification while its release would not. Therefore, in order to avoid this contradiction, today's final rule sets the quantitative level below which the storage of hazardous substances for one year or more would not require notification under section 120(h)(1) at the greater of either 1000 kilograms or the reportable quantity for the particular hazardous substance found at 40 CFR 302.4. Additionally, it should be noted that reporting the storage of hazardous substances will only be required when the greater of either 1000 kilograms or the RQ is stored for a period of one entire year. As in the proposed rule, the exception to this is for those items that are both CERCLA hazardous substances and acutely hazardous wastes under the Resource Conservation and Recovery Act (RCRA). Today's final rule establishes the notice trigger for the storage of those substances at one kilogram.

2. Triggers for release and disposal.

Several commenters suggested using the RQs to establish triggers for notifying buyers of the release of hazardous substances under section 120(h)(1). EPA has considered this approach, and believes that it is logical, reasonable, and appropriate to use the RQ values as levels below which the release of hazardous substances will not require notification under section 120(h), and has incorporated these release triggers into today's final rule.

One commenter suggested using RQ values as quantitative levels below which the notice requirement for the disposal of hazardous substances under section 120(h)(1) would not apply. EPA has considered incorporating such an approach into the final rule. However, since the disposal of hazardous substances is normally managed under the Resource Conservation and Recovery Act (RCRA), which has not established any type of quantitative triggers for such an activity, EPA has not promulgated a trigger for reporting the disposal of hazardous substances under section 120(h)(1) in today's final rule.

G. Form and Manner of Notice

Several commenters stated that while the information proposed to be required in the section 120(h)(1) notice is appropriate, EPA should require that GSA form 118b be used whenever property is sold or transferred through GSA. One commenter also stated that property that is transferred to private ownership without GSA involvement should use the information required by EPA as additional language in the conveyance rather than by creating a new form.

EPA agrees that GSA form 118b is the appropriate vehicle for the disclosure of information required by section 120(h)(1) when the property is sold or transferred by GSA. However, since GSA has indicated that it will amend the information requirements of 118b to reflect the type of information proposed by EPA to implement the requirements of section 120(h), EPA sees no need to state that 118b is specifically required. In today's final rule, EPA simply requires that the specific information described in the proposed rule be included with the contract of sale, and notes that standard GSA operating procedure will require the modified form 118b in properties handled by GSA.

III. Regulatory Analyses

A. Regulatory Impact Analysis

Executive Order No. 12291 requires EPA to assess the effect of contemplated Agency actions during the development of regulations. Such an assessment consists of a quantification of the potential benefits and costs of the rule, as well as a description of any beneficial or adverse effects that cannot be quantified in monetary terms. In addition, Executive Order 12291 requires that regulatory agencies prepare an analysis of the regulatory impact of major rules. Major rules are defined as those likely to result in:

1. An annual cost to economy of $100 million or more; or

2. A major increase in costs or prices for consumers or individual industries; or

3. Significant adverse effects on competition, employment, investment, innovation, or international trade.

Because this proposed rule affects only agencies, departments, or instrumentalities of the United States, no formal Regulatory Impact Analysis was conducted. However, EPA has concluded, based on a survey of the number of properties federal agencies sell or transfer each year, and the cost to the agency of complying with the notice provisions of section 120(h)(1), that the cost of the regulation to the government falls well below the $100 million threshold of a major rule.

This rule has been submitted to the Office of Management and Budget for review as required by Executive Order No. 12291.

B. Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act, 5 U.S.C 601 *et seq.*, whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). Since this final rule affects only agencies, departments, or instrumentalities of the United States, no regulatory flexibility analysis is required. Therefore, EPA certifies that the rule will not have significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

This proposed rule only affects entities of the Federal Government. Therefore, the reporting and notification requirements contained in this rule are not subject to approval by the Office of Management and Budget (OMB) under provisions of the Paperwork Reduction Act of 1980. 44 U.S.C. 3501, *et seq.*

IV. References

(1) U.S. EPA. "Background Document for the Federal Real Property Transfer Regulations as Authorized by section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act." U.S. EPA, OWPE, Washington, DC, 1987.

List of Subjects in 40 CFR Part 373

Federal facilities, Federal real property transfer, Environmental protection, Hazardous substances, Hazardous materials, Reporting and recordkeeping requirements, Superfund, Hazardous substance storage, release, and disposal.

Dated: April 6, 1990.

William K. Reilly,

Administrator.

Therefore, for the reasons set out in the preamble, chapter I of title 40 of the Code of Federal Regulations be amended as follows:

1. Part 373 is added to read as follows:

PART 373—REPORTING HAZARDOUS SUBSTANCE ACTIVITY WHEN SELLING OR TRANSFERRING FEDERAL REAL PROPERTY

Sec.

373.1 General requirement.
373.2 Applicability.
373.3 Content of notice.
373.4 Definitions.

Authority: Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601 *et seq.*

§ 373.1 General requirement.

After the last day of the six month period beginning on April 16, 1990, whenever any department, agency, or instrumentality of the United States enters into any contract for the sale or other transfer of real property which is owned by the United States and at which, during the time the property was owned by the United States, any hazardous substance was stored for one year or more, known to have been released, or disposed of, the head of such department, agency, or instrumentality must include in such contract notice of the type and quantity of such hazardous substance and notice of the time at which such storage, release, or disposal took place, to the extent such information is available on the basis of a complete search of agency files.

§ 373.2 Applicability.

(a) Except as otherwise provided in this section, the notice required by 40 CFR 373.1 applies whenever the United States enters into any contract for the sale or other transfer of real property which is owned by the United States and on which any hazardous substance was stored for one year or more, known to have been released, or disposed of.

(b) The notice required by 40 CFR 373.1 for the storage for one year or more of hazardous substances applies only when hazardous substances are or have been stored in quantities greater than or equal to 1000 kilograms or the hazardous substance's CERCLA reportable quantity found at 40 CFR 302.4, whichever is greater. Hazardous substances that are also listed under 40 CFR 261.30 as acutely hazardous wastes, and that are stored for one year or more, are subject to the notice requirement when stored in quantities greater than or equal to one kilogram.

(c) The notice required by 40 CFR 373.1 for the known release of hazardous substances applies only when hazardous substances are or have been released in quantities greater than or equal to the substance's CERCLA reportable quantity found at 40 CFR 302.4.

§ 373.3 Content of notice.

The notice required by 40 CFR 373.1 must contain the following information:

(a) The name of the hazardous substance; the Chemical Abstracts Services Registry Number (CASRN) where applicable; the regulatory synonym for the hazardous substance, as listed in 40 CFR 302.4, where applicable; the RCRA hazardous waste number specified in 40 CFR 261.30, where applicable; the quantity in kilograms and pounds of the hazardous substance that has been stored for one year or more, or known to have been released, or disposed of, on the property, and the date(s) that such storage, release, or disposal took place.

(b) The following statement, prominently displayed: "The information contained in this notice is required under the authority of regulations promulgated under section 120(h) of the Comprehensive Environmental Response, Liability, and Compensation Act (CERCLA or "Superfund") 42 U.S.C. section 9620(h)."

§ 373.4 Definitions.

For the purposes of implementing this regulation, the following definitions apply:

(a) *Hazardous substances* means that group of substances defined as hazardous under CERCLA 101(14), and that appear at 40 CFR 302.4.

(b) *Storage* means the holding of hazardous substances for a temporary period, at the end of which the hazardous substance is either used, neutralized, disposed of, or stored elsewhere.

(c) *Release* is defined as specified by CERCLA 101(22).

(d) *Disposal* means the discharge, deposit, injection, dumping, spilling, leaking or placing of any hazardous substance into or on any land or water so that such hazardous substance or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

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federal register

Monday
April 16, 1990

Part V

Office of Management and Budget

Cumulative Report on Budget Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Budget Rescissions and Deferrals

April 1, 1990.

This report is submitted in fulfillment of the requirement of section 1014(e) of the Impoundment Control Act of 1974 (Public Law 93–344). Section 1014(e) requires a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to Congress.

This report gives the status, as of April 1, 1990, of 28 deferrals contained in the first three special messages of FY 1990. These messages were transmitted to Congress on October 2, 1989, January 29, 1990, and February 6, 1990.

Rescissions

As of the date of this report, no rescission proposals were pending before Congress.

Deferrals (Table A and Attachment A)

As of April 1, 1990, $8,642.7 million in budget authority was being deferred from obligation. Attachment A shows the history and status of each deferral reported during FY 1990.

Information from Special Messages

The special messages containing information on the deferrals covered by this cumulative report are printed in the **Federal Register** as cited below:

54 FR 41410, Friday, October 6, 1989
55 FR 3860, Monday, February 5, 1990
55 FR 5388, Wednesday, February 14, 1990

Richard G. Darman,
Director.

BILLING CODE 3110–01–M

TABLE A

STATUS OF FY 1990 DEFERRALS

	Amounts (In millions of dollars)
Deferrals proposed by the President.....	10,642.3
Routine Executive releases through April 1, 1990...	-1,999.6
Overturned by the Congress.....	0
Currently before the Congress.....	8,642.7

Attachments

ATTACHMENT A
Status of FY 1990 Deferrals - As of April 1, 1990
(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Message	Releases(-): Cumulative OMB/ Agency	Releases(-): Congressionally Required	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 4-1-90
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund	D90-1	271,000		10-02-89					
	D90-1A		1,798,079	01-29-90	430,734				1,638,344
Foreign military financing	D90-8	4,156,642		01-29-90	1,075,000				3,081,642
International military education and training	D90-9	23,293		01-29-90	23,293				0
DEPARTMENT OF AGRICULTURE									
Forest Service									
Expenses, brush disposal	D90-2	188,680		10-02-89	52,726				135,954
Cooperative work	D90-3	410,189		10-02-89					
	D90-3A		367,148	01-29-90	322,896				454,441
DEPARTMENT OF DEFENSE - MILITARY									
Aircraft Procurement, Army	D90-10	16,000		02-06-90	1/				16,000
Procurement of Ammunition, Army	D90-11	310,000		02-06-90	1/				310,000
Procurement of Ammunition, Army	D90-12	90,000		02-06-90	1/				90,000

1/ On March 28, 1990, the Director of the Office of Management and Budget informed the Congressional Committees on Appropriations that the Administration no longer intends to withhold $2,193,850,000 in Department of Defense deferrals. These funds will be released no later than April 13, 1990.

ATTACHMENT A
Status of FY 1990 Deferrals - As of April 1, 1990
(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Message	Releases(-): Cumulative OMB/ Agency	Releases(-): Congressionally Required	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 4-1-90
Other Procurement, Army	D90-13	11,000		02-06-90	1/				11,000
Aircraft Procurement, Navy	D90-14	200,000		02-06-90	1/				200,000
Weapons Procurement, Navy	D90-15	13,900		02-06-90	1/				13,900
Shipbuilding and Conversion, Navy	D90-16	592,398		02-06-90	1/				592,398
Shipbuilding and Conversion, Navy	D90-17	324,800		02-06-90	1/				324,800
Aircraft Procurement, Air Force	D90-18	181,700		02-06-90	1/				181,700
Missile Procurement, Air Force	D90-19	131,000		02-06-90	1/				131,000
Other Procurement, Air Force	D90-20	70,000		02-06-90	70,000				0
National Guard and Reserve Equipment, Defense	D90-21	40,900		02-06-90	1/				40,900
Research, Development, Test and Evauation, Air Force	D90-22	100,000		02-06-90	1/				100,000
Research, Development, Test and Evaluation, Defense Agencies	D90-23	21,000		02-06-90	1/				21,000
Military Construction, Army	D90-24	3,200		02-06-90	1/				3,200
Military Construction, Army	D90-25	16,150		02-06-90	1/				16,150
Military Construction, Army National Guard	D90-26	18,301		02-06-90	1/				18,301
Military Construction, Air National Guard	D90-27	36,841		02-06-90	1/				36,841
Military Construction, Army Reserve	D90-28	16,660		02-06-90	1/				16,660

1/ On March 28, 1990, the Director of the Office of Management and Budget informed the Congressional Committees on Appropriations that the Administration no longer intends to withhold $2,193,850,000 in Department of Defense deferrals. These funds will be released no later than April 13, 1990.

[FR Doc. 90-8739 Filed 4-13-90; 8:45 am]
BILLING CODE 3110-01-C

ATTACHMENT A
Status of FY 1990 Deferrals - As of April 1, 1990
(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Message	Releases(-): Cumulative OMB/ Agency	Releases(-): Congressionally Required	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 4-1-90
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation, Defense.....	D90-4	1,047		10-02-89					1,047
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Social Security Administration									
Limitation on administrative expenses (construction).....	D90-5	7,078		10-02-89					7,078
DEPARTMENT OF STATE									
Bureau for Refugee Programs									
United States emergency refugee and migration assistance fund, executive....	D90-6	44		10-02-89					
	D90-6A		49,785	01-29-90	24,950				24,879
DEPARTMENT OF TRANSPORTATION									
Federal Aviation Administration									
Facilities and equipment (Airport and airway trust fund).....	D90-7	502,361		10-02-89					
	D90-7A		673,064	01-29-90					1,175,425
TOTAL, DEFERRALS.....		7,754,185	2,888,075		1,999,599	0		0	8,642,661

federal register

Monday
April 16, 1990

Part VI

Department of Education

34 CFR Part 346

Technology-Related Assistance for Individuals With Disabilities: Demonstration and Innovation Projects of National Significance; Notice of Proposed Rulemaking

DEPARTMENT OF EDUCATION

34 CFR Part 346

Technology-Related Assistance for Individuals With Disabilities: Demonstration and Innovation Projects of National Significance

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes regulations to implement the Demonstration and Innovation Projects of National Significance under the Technology-Related Assistance for Individuals with Disabilities Program. The proposed regulations would implement part D of title II of the Technology-Related Assistance for Individuals with Disabilities Act of 1988 (Pub. L. 100–407). The proposed regulations state the purposes of the program, the types of activities that may be supported, the priorities that the Secretary may establish under the program, application requirements, the selection criteria by which the Secretary evaluates applications, and the requirements that must be met by those applicants that receive awards under the program.

DATES: Comments must be received on or before May 31, 1990.

ADDRESSES: Comments should be addressed to: Betty Jo Berland, National Institute on Disability and Rehabilitation Research, Department of Education, 400 Maryland Avenue SW., Switzer Building, room 3422, Washington, DC 20202–2016.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Betty Jo Berland, telephone: (202) 732–1139; deaf or hearing-impaired persons who use telecommunication devices for the deaf (TDD) may call (202) 732–1198.

SUPPLEMENTARY INFORMATION: The Technology-Related Assistance for Individuals with Disabilities Act of 1988 (Pub. L. 100–407) was enacted on August 19, 1988. In the Act, the Congress noted that there have been major advances in technology during the past decade. The Congress found that the provision of assistive technology devices and services can enable some persons with disabilities to have greater control over their own lives, increase their participation in education, employment, family, and community activities, interact to a greater extent with individuals who do not have disabilities, and otherwise benefit from opportunities that are commonly available to individuals who do not have disabilities. On August 9, 1989, the Secretary published regulations to implement title I of the Act, the State Grants Program for Technology-Related Assistance for Individuals with Disabilities. This program provides funds to States, on a competitive basis, to develop consumer-responsive comprehensive statewide programs of technology-related assistance for individuals of all ages who have disabilities. These proposed regulations implement part D of title II of the Act. They provide regulations that will enable the Department to support innovation and demonstration projects that enhance the provision of technology-related assistance for individuals with disabilities. These proposed regulations incorporate the statutory purposes of the three types of projects that may be funded under this program—model demonstration projects for delivering assistive technology devices and services, research and development projects, and income-contingent direct loan demonstration projects.

These proposed regulations describe the types of activities that may be supported under each of the three project types and state the priorities that may be applied to each of them. From time to time, the Secretary will publish a notice in the **Federal Register** requesting applications for awards under this program; the notice may specify particular priorities under one or more of the project types. The Secretary will refer complete applications to one or more groups of expert peer reviewers, which will evaluate the applications according to the selection criteria in § 346.31, § 346.32, or § 346.33, as appropriate. The Secretary will appoint as members of the peer review groups individuals who have expertise, by reason of training or experience, in such areas as the provision of assistive technology devices or services; public administration; development and implementation of public systems; evaluation of delivery programs; education, training, and public information; provision of services to individuals with disabilities and their families; health care and benefits administration; personal use of assistive technology; administration of direct loan programs; rehabilitation research; engineering, especially rehabilitation engineering; product testing, and other areas related to the purposes of the program.

The proposed selection criteria for applications for model delivery projects are detailed in this NPRM at § 346.31, and include the extent to which the proposed project is innovative, meets an important need, and is likely to be replicable; has measurable goals to meet the identified need; has a plan of activities that indicates how the project is likely to accomplish the stated goals; has an appropriate management plan; involves individuals with disabilities or their families or representatives appropriately in the activities of the project; and includes an appropriate plan for evaluation of the project. The proposed selection criteria for research and development projects are presented in § 346.32 and include the extent to which the proposed project is for a device or technique that is innovative, likely to meet an important need, and likely to be an improvement over currently available technology; provides a plan of activities that indicates familiarity with the state-of-the-art in technology, ensures that devices will be appropriately tested, and extensively involves individuals with disabilities in the evaluation of devices and techniques; includes an appropriate plan for managing the activities under the grant; and adequately involves individuals with disabilities or their families or representatives; and has a plan for evaluating the project that will provide an assessment of the extent to which the project has met its goals. The criteria for the evaluation of applications for income-contingent direct loan demonstration projects are stated in § 346.33(b) and include the extent to which the proposed loan program is innovative and will meet a particular need in the target population; has a plan of activities that includes measurable goals and objectives, provides for the appropriate involvement of individuals with disabilities or their families or representatives, includes appropriate loan fund operation procedures, and provides for documentation and dissemination of the project's findings; includes a management plan that indicates how the plan of activities will be carried out, with emphasis on the fiscal responsibility and accountability of the project's management; and provides for an appropriate evaluation of the extent to which the project has accomplished its goals. Applications for income-contingent direct loan projects must include the required elements specified in § 346.33(a). The proposed regulations clarify the obligations of a grantee with respect to information sharing.

The Department of Education's responsibilities under this Act will be administered by the National Institute on Disability and Rehabilitation Research (NIDRR), created under title II of the Rehabilitation Act of 1973, as amended by Public Laws 95–602, 98–221, and 99–506.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. The small entities that would be affected by these proposed regulations would include nonprofit and for-profit organizations, but these regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1980

Sections 346.31, 346.32, 346.33, and 346.40 contain information collection requirements. As required by section 3504(b) of the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these proposed regulations to the Office of Management and Budget (OMB) for its review.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, room 3002, New Executive Office Building, Washington, DC 20503; attention: James D. Houser.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in room 3422 of the Switzer Building, 330 C Street SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 346

Administrative practice and procedure, Education, Educational research, Grant programs—education, Handicapped, Reporting and recordkeeping requirements.

Dated: March 1, 1990.

Lauro F. Cavazos,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number 84.231, National Institute on Disability and Rehabilitation Research)

The Secretary proposes to amend title 34 of the Code of Federal Regulations by adding a new part 346 to read as follows:

PART 346—TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES: DEMONSTRATION AND INNOVATION PROJECTS OF NATIONAL SIGNIFICANCE

Subpart A—General

Sec.

346.1 What is the demonstration and innovation projects program?
346.2 What are the purposes of the demonstration and innovation grants program?
346.3 Who is eligible for assistance under this program?
346.4 What regulations apply to this program?
346.5 What definitions apply to this program?

Subpart B—What Kinds of Activities Does the Department Support Under This Program?

346.10 What types of projects may be supported under this program?
346.11 What are the priorities under this program?

Subpart C—[Reserved]

Subpart D—How Does the Secretary Make a Grant Under This Program?

346.30 How does the Secretary evaluate applications under this program?
346.31 What selection criteria are used to evaluate applications for model delivery projects for technology-related devices and services under this program?
346.32 What selection criteria are used to evaluate applications for research and development projects under this program?
346.33 What selection criteria are used to evaluate applications for income-contingent direct loan demonstration projects under this program?

Subpart E—What Are the Additional Requirements of a Grantee?

346.40 What are the requirements that apply to a grantee for coordination and information sharing?
346.41 What is the requirement for cost-sharing under this program?

Authority: 29 U.S.C. 2201–2271, unless otherwise noted.

Subpart A—General

§ 346.1 What is the demonstration and innovation projects program?

This program provides grants or cooperative agreements to nonprofit or for-profit entitites to pay all or part of the cost of establishing or operating demonstration and innovation projects related to technology-related assistance for individuals with disabilities.

(Authority: 29 U.S.C. 2261(a))

§ 346.2 What are the purposes of the demonstration and innovation grants program?

The purposes of this program are to undertake demonstration and innovation projects in areas of national significance that will promote the development of comprehensive, consumer-responsive statewide systems of technology-related assistance for individuals with disabilities, and enhance the capacity of the Federal government to provide information, models, and technical assistance to the States.

(Authority: 29 U.S.C. 2201 and 2261(a))

§ 346.3 Who is eligible for assistance under this program?

Nonprofit and for-profit entities may apply for grants or cooperative agreements under this program.

(Authority: 29 U.S.C. 2261(a))

§ 346.4 What regulations apply to this program?

The following regulations apply to the Demonstration and Innovation Projects of National Significance Program:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations), part 75 (Direct Grant Programs), part 77 (Definitions that Apply to Department Regulations), part 81 (General Education Provisions

Act—Enforcement), and part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for a Drug-Free Workplace (Grants)).

(b) The regulations in this part 346.

(Authority: 29 U.S.C. 2201–2271)

§ 346.5 What definitions apply to this program?

(a) *Definitions in the Technology-Related Assistance for Individuals With Disabilities Act of 1988.* The following terms used in this part are defined in section 3 of the Act.

Assistive technology device
Assistive technology service
Individual with disabilities
Institution of higher education
Secretary
State
Technology-related assistance
Underserved group

(b) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Applicant
Application
Award
Department
EDGAR
Fiscal year
Grant period
Nonprofit
Nonpublic
Private
Project
Project Period
Public

(c) *Other definitions.* The following definitions also apply to this part:

Direct loan means a loan of money to an individual with disabilities, or to a family or employer on behalf of an individual with disabilities, to be used for the purchase or lease of technology-related devices or services.

Direct support services means services that are provided directly to an individual with a disability to facilitate major life activities, such as services provided by personal care attendants, interpreters, readers, and notetakers.

Income contingent means that eligibility for receipt of a loan, the loan amount, and the repayment schedule are based on the income and financial need of the individual with disabilities.

Model projects means projects that are designed to demonstrate new or innovative ways of developing or providing assistive technology devices or services and that can be replicated in other settings.

Orphan technology or *orphan devices* means technology or devices that are likely to be beneficial to individuals with disabilities but are not likely to be produced commercially.

Research and development projects means the systematic use of knowledge and understanding in order to create useful materials, devices, systems, or methods, including the design and development of prototypes and procedures.

(Authority: 29 U.S.C. 2201–2271)

Subpart B—What Kinds of Activities Does the Department Support Under This Program?

§ 346.10 What types of projects may be supported under this program?

Under this program, the Secretary may award grants or cooperative agreements to support the following types of projects:

(a) *Model projects for delivering assistive technology devices and services.* Projects that demonstrate improved methods to deliver technology-related assistance to individuals of all ages with disabilities functioning in various environments and carrying out various activities, which, if successful, could be replicated or made generally applicable, and which may include—

(1) The purchase, lease, or other acquisition of assistive technology devices and services or payment for the provision of these devices and services;

(2) The use of counselors, including peer counselors, to assist individuals with disabilities or their families to obtain assitive technology devices and services;

(3) Demonstrations on ways to most appropriately involve individuals with disabilities or their family members in decisions related to the provision of assistive technology devices and services;

(4) Demonstrations of improved ways to deliver services to previously underserved groups or hard-to-reach populations, including rural residents, racial or ethnic minorities, children or elderly persons, or individuals with low-prevalence disabilities; or

(5) Innovative models for the organization of service-delivery systems, including innovative models for the involvement of a wide range of private and public agencies in the delivery system.

(b) *Model research and development projects.* Applied research and development projects designed to—

(1) Increase the availability of reliable and durable assistive technology devices that address unique or low-prevalence disabilities or other disabilities with low market demand or disabilities with complex technology-related needs;

(2) Develop strategies and techniques to involve individuals with disabilities in assessing performance characteristics of technology developed for use by individuals who do not have disabilities and developing adaptations of that technology for individuals with disabilities;

(3) Facilitate the transfer of general technology to uses and adaptations appropriate for individuals with disabilities; or

(4) Facilitate effective and efficient transfer of available technology to consumers.

(c) *Income-contingent direct loan demonstration projects.* Demonstration projects to examine the feasibility of an income-contingent direct loan program that would provide loans to—

(1) Individuals with disabilities who require technology-related assistance to maintain or enhance their level of functioning in any major life activity; or

(2) Families or employers of individuals with disabilities, on behalf of those individuals, to provide technology-related assistance to maintain or enhance their level of functioning in any major life activity.

(Authority: 29 U.S.C. 2211 and 2261)

§ 346.11 What are the priorities under this program?

(a) Each year the Secretary may establish priorities to support innovation or demonstration projects, including projects in one or more of the following areas:

(1) *Model projects for delivering assistive technology devices and services.* Priorities for model delivery projects include—

(i) Improved methods for the delivery of technology-related assistance in rural areas;

(ii) Improved methods for the delivery of technology-related assistance for disabilities of low-prevalence or for individuals with the most severe disabilities;

(iii) Demonstrations of the use of peers with disabilities as agents of service delivery or of consumer-operated service delivery models;

(iv) Models to improve technology-related assistance for individuals in transition between various life settings or activities;

(v) Innovative models for financing technology-related assistance;

(vi) Models to provide technology-related assistance for employment;

(vii) Improved methods to provide technology-related assistance for

infants, toddlers, and preschool children;

(viii) Methods to enhance the provision of technology-related assistance for school-age children in educational and other settings;

(ix) Improved models to provide technology-related assistance for older persons with disabilities;

(x) Improved models for providing technology-related assistance to previously underserved populations, including those from different racial or ethnic backgrounds and those with limited English proficiency;

(xi) Improved models for the delivery of technology-related assistance to aid in the deinstitutionalization or increased independence of individuals with disabilities who reside in institutions;

(xii) Model programs to increase awareness of the availability and effectiveness of technology for individuals with disabilities;

(xiii) Model programs to train individuals with disabilities and their families or representatives to access technology-related assistance through existing service programs;

(xiv) Innovative mechanisms for providing assistive devices or services that are needed for short durations;

(xv) Demonstrations of the innovative use of mobile service delivery systems;

(xvi) Innovative models for recycling assistive devices;

(xvii) Evaluations of the impact of technology-related assistance on the performance of major life functions in individuals with disabilities;

(xviii) Cost-benefit studies of the use of technology-related devices and services by individuals with disabilities;

(xix) Models for the delivery of technology-related assistance for individuals with mental illness;

(xx) Modes for the use of technology-related assistance in supported employment programs;

(xxi) Model projects using technology to facilitate access by individuals with disabilities to direct support services;

(xxii) Model projects to provide technology-related devices and services soon after the onset of disability;

(xxiii) Innovative models to overcome transportation barriers to the delivery of technology-related assistance; or

(xxiv) Demonstrations of the relative merits of various mechanisms for loans of equipment, including management by consumer-directed organizations, short-term loans, shared use of equipment needed for special activities, recycling of devices, and other innovative equipment loan programs.

(2) *Research and development projects.* Priorities for research and development projects include—

(i) The development of orphan technology;

(ii) The evaluation of new devices and equipment;

(iii) The adaptation of technology developed for the population without disabilities to meet the specialized needs of individuals with disabilities;

(iv) The development of devices that incorporate new scientific or technological knowledge or materials;

(v) The development of improved access to computer hardware or software;

(vi) The development of devices to facilitate communication;

(vii) The development of devices to improve learning or cognition;

(viii) The development of devices to improve control of the environment;

(ix) The development of devices to improve mobility;

(x) The development of improved prosthetic or orthotic devices;

(xi) The development of devices to improve hearing;

(xii) The development of devices to improve vision;

(xiii) The development of devices to assist in toileting and self-care;

(xiv) The development of adaptations to housing, public buildings, or work-sites;

(xv) The transfer of needed assistive technology from developmental to production stages;

(xvi) The development of devices to assist in the provision of direct support services to individuals with disabilities;

(xvii) The development of devices to improve communications for individuals with hearing impairment;

(xviii) The development of devices to improve communication for individuals with vision impairment; or

(xix) The development of devices to enhance transportation for individuals with disabilities.

(3) *Income-contingent loan demonstration projects.* Priorities for income-contingent direct loan demonstration projects include—

(i) The involvement of financial institutions or other private entities in the provision of monetary loans with public guarantees;

(ii) The feasibility of attracting private capital to establish loan funds;

(iii) The viability of loans made for the lease or purchase of technology-related assistance for work-related purposes;

(iv) The viability of loans made for adults, children, or elderly individuals with disabilities;

(v) The effectiveness of loans to employers for technology-related devices or services to promote the employment of individuals with disabilities;

(vi) Methods to determine appropriate income eligibility guidelines;

(vii) Methods to determine appropriate repayment schedules and mechanisms;

(viii) Methods of estimating costs for the operation of loan programs of various types;

(ix) Projects to test the effectiveness and viability of loans for various types of devices;

(x) Methods to determine feasible interest rates for loan progams;

(xi) Methods to assess individuals with disabilities or their families or representatives as candidates for loans;

(xii) Strategies to administer loans for the repair and maintenance of devices;

(xiii) Strategies to administer loans for obtaining technology-related services rather than equipment; or

(xiv) Models for the provision of loan insurance for other lenders.

(Authority: 29 U.S.C. 2261)

Subpart C—[Reserved]

Subpart D—How Does the Secretary Make a Grant Under This Program?

§ 346.30 How does the Secretary evaluate applications under this program?

(a) The Secretary evaluates each application—

(1) For a model project for delivering assistive technology devices and services using the selection criteria in § 346.31;

(2) For a research and development project according to the criteria in § 346.32; and

(3) For an income-contingent direct loan demonstration project according to the criteria in § 346.33(b).

(b) The Secretary awards each application a value of zero to five (0–5) for each criterion listed in § 346.31, § 346.32, or § 346.33(b), respectively. These values are based on how well the application addresses each criterion, as follows: Outstanding (5); Superior (4); Satisfactory (3); Marginal (2); Poor (1); or not addressed in the application (0).

(c) The Secretary weights each criterion as indicated in § 346.31, § 346.32, or § 346.33(b), respectively. The value awarded to each criterion in an application is multiplied by the standard weight accorded to that criterion in § 346.31, § 346.32, or § 346.33(b), as appropriate.

(d) The final score for each application is determined by totaling the scores computed for each criterion.

(e) The maximum score for each application is 100 points.

(Authority: 29 U.S.C. 2261)

§ 346.31 What selection criteria are used to evaluate applications for model delivery projects for technology-related devices or services under this program?

The Secretary reviews each application for a model delivery project award to determine the following:

(a) *Importance and Innovativeness* (Weight: 4; Total Points: 20)

(1) The proposed activity addresses a significant need in the provision of technology-related assistance to individuals with disabilities;

(2) The proposed activity addresses problems not now being addressed or addresses problems in a new and different way;

(3) The proposed activity effectively responds to one or more of the announced priorities of the program, if any; and

(4) The model, if successful, is likely to be applicable to, and replicated in, other settings involving the provision of assistive technology devices or services to individuals with disabilities.

(b) *Goals and objectives* (Weight: 3; Total Points: 15) The proposed project includes goals and objectives that—

(1) Address the problem or need identified under § 346.31(a)(1); and

(2) Are clearly measurable, with both milestones of progress and indicators of success.

(c) *Plan of activities* (Weight: 5; Total Points: 25) The project includes a plan of activities that—

(1) Indicates a likelihood that the proposed activities will accomplish the goals and objectives under § 345.31(b)(2);

(2) Is based on a sound conceptual model or reasonable hypotheses;

(3) Uses appropriate sample populations;

(4) Will use appropriate methodology for measurement and the analysis of data; and

(5) Reasonably provides for the dissemination of findings and the documentation of the model for replication purposes.

(d) *Management plan* (Weight: 2; Total Points: 10) The project includes a plan for management of the activities that—

(1) Includes an adequate number of staff qualified by training and experience to implement the activities under the grant;

(2) Appropriately manages and accounts for the fiscal resources of the grant;

(3) Details internal procedures for the management of the resources under the grant, including specification of responsibilities and administrative authority and provisions for internal monitoring of progress;

(4) Includes realistic timelines for the implementation of project activities so as to ensure accomplishment of proposed goals and objectives within the time period proposed in the application; and

(5) Allots sufficient and appropriate resources from the grant or other sources for the accomplishment of the proposed project activities.

(e) *Inclusion of individuals with disabilities and their families or representatives* (Weight: 3; Total Points: 15) The project includes substantive roles for individuals with disabilities or their families or representatives in—

(1) The development of the project, including the assessment of problems and needs;

(2) The establishment of goals and objectives for the project;

(3) The planning and implementation of the functions and activities to be carried out under the project grant;

(4) The evaluation of activities under the grant and the assessment of the demonstration model; and

(5) The dissemination of project findings and of replicable models.

(f) *Evaluation plan* (Weight: 3; Total Points: 15) The project includes a plan for evaluating the extent to which the demonstration project has achieved its goals and objectives that—

(1) Specifies adequate indicators of accomplishment for each of the goals and objectives;

(2) Specifies appropriate measures to be used and the data elements needed for these measures;

(3) Specifies appropriate and feasible data sources and data collection methods;

(4) Specifies appropriate methods of data analysis that are likely to yield objective and meaningful evaluation results; and

(5) Allocates sufficient resources, including personnel, funds, and administrative priority, to the evaluation.

(Authority: 29 U.S.C. 2211–2271)

§ 346.32 What selection criteria are used to evaluate applications for research and development projects under this program?

The Secretary reviews each application for a research and development award to determine the degree to which the project demonstrates the following:

(a) *Need and Innovativeness* (Weight: 4; Total Points: 20)

(1) The proposed device or procedure addresses a problem that will facilitate one or more life functions or enhance the quality of life for individuals with disabilities;

(2) The proposed device or technique meets needs not currently met by existing devices or techniques, applies new technologies in the development of devices or procedures, adapts technology designed for use by individuals without disabilities for use by persons with disabilities, or develops devices or procedures that are more effective, more acceptable to consumers, or more accessible to consumers than those currently available;

(3) The proposed project effectively responds to one or more of the announced program priorities, if any; and

(4) The proposed project is likely to result in new, improved, and useful devices or techniques becoming available to individuals with disabilities.

(b) *Plan of activities* (Weight: 5; Total Points: 25) The project includes a plan of activities that—

(1) Provides for an appropriate review of the literature and indicates a familiarity with the state-of-the-art in technology;

(2) Is based on a sound conceptual model;

(3) Will use the most effective and appropriate technologies available in developing the new device or technique;

(4) Sets forth appropriate and measurable goals and objectives;

(5) Presents an appropriate plan for the testing and evaluation of the device or procedure;

(6) Ensures that devices or techniques will be developed and tested in appropriate environments;

(7) Extensively involves individuals with disabilities in the evaluation of devices and procedures;

(8) Adequately considers the cost-effectiveness of the device or technique to be developed in comparison to commercially available devices or techniques for the same purpose;

(9) Appropriately assesses the safety of the device or technique for individuals with disabilities or other consumers; and

(10) Indicates, with appropriate analysis and support, the potential for production and distribution of the device or procedure through either commercial or other mechanisms.

(c) *Management Plan* (Weight: 4; Total Points: 20) The project includes a plan for management of the activities that—

(1) Includes an adequate number of staff qualified by training and experience to implement the proposed activities;

(2) Appropriately manages and accounts for the fiscal resources of the project;

(3) Details internal procedures for managing the resources under the grant, including specification of responsibilities and administrative authority, and provisions for internal monitoring of progress;

(4) Includes realistic timelines for the implementation of project activities so as to ensure accomplishment of proposed goals and objectives within the time period proposed in the application; and

(5) Allots sufficient and appropriate resources from the grant or other sources for the accomplishment of the proposed project activities.

(d) *Involvement of individuals with disabilities* (Weight: 4; Total Points: 20) The project includes appropriate involvement of individuals with disabilities or their families or representatives in—

(1) The identification of the need for the project;

(2) Project planning;

(3) The conduct of project activities and management of the project;

(4) The evaluation of the project's accomplishments; and

(5) Dissemination of project findings.

(e) *Evaluation plan* (Weight: 3; Total Points: 15) The project includes a plan for evaluating the extent to which the project has achieved its goals and objectives that—

(1) Specifies appropriate indicators of accomplishment for each of the goals and objectives;

(2) Specifies appropriate measures to be used and the data elements needed for these measures;

(3) Specifies sources of data and feasible data collection methods to be used for each measure;

(4) Specifies appropriate methods of data analysis that are likely to yield objective and meaningful evaluation results; and

(5) Allocates sufficient resources, including personnel, funds, and administrative priority, to the evaluation.

(Authority: 29 U.S.C. 2211–2271)

§ 346.33 What selection criteria are used to evaluate applications for income-contingent direct loan demonstration projects under this program?

(a) The Secretary reviews each application to determine that the project includes the required elements of—

(1) A method to determine an appropriate process for selecting individual loan recipients;

(2) A method to determine an interest rate, or rates, to be used in the project;

(3) A method to determine an appropriate repayment schedule;

(4) A provision for the use of interest earned on loans and on the loan fund that is consistent with the purposes of this program; and

(5) A provision for the use of grant funds, consistent with the provisions of this program, at the conclusion of the grant period.

(b) The Secretary reviews each application that includes all of the elements in (a) to determine the degree to which—

(1) *Need and Innovativeness* (Weight: 4; Total Points: 20) The project—

(i) Is responsive to a documented need within a particular target population that is described in the application;

(ii) Demonstrates either a new approach to providing loans for technology-related assistance to individuals with disabilities or reaches a population of individuals with disabilities not previously served;

(iii) Effectively responds to one of the announced priorities of the program, if any; and

(iv) Is capable of being replicated and is applicable to meeting important needs in other settings.

(2) *Plan of activities* (Weight: 5; Total Points: 25) The project includes an appropriate plan of activities that—

(i) Sets forth measurable goals and objectives based on sound assumptions about the operation of loan programs;

(ii) Includes an appropriate methodology for determining program eligibility that includes an income contingency;

(iii) Includes an appropriate methodology for determining individual loan amounts, considering the individual's need and income, as well as the program's total resources;

(iv) Includes an appropriate repayment schedule, or process for determining a repayment schedule, that includes income as a factor in the repayment schedule;

(v) Includes an appropriate process for selecting specific individuals, families, or empoyers to be loan recipients;

(vi) Includes an appropriate method for determining the interest rate, or rates, to be used in the project;

(vii) Provides an appropriate method for ensuring that loan funds are not used for obtaining devices or services that can be obtained with funding from public programs or private insurance unless there are adequate provisions to obtain reimbursement from those sources within a reasonable period of time;

(viii) Provides an appropriate method for verifying the suitability of the device or service to be obtained with the loan funds, the reasonableness of the cost of the device or service, and the availability of appropriate warranties and technical support for the product;

(ix) Includes an appropriate method of publicizing the loan program to the target population;

(x) Includes appropriate procedures for collecting amounts due from third-party payers and from borrowers;

(xi) Provides procedures to verify that loans are used for the intended purposes;

(xii) Provides a procedure for maintaining documentation of all significant project activities;

(xiii) Provides a method for the collection of relevant data in order to evaluate the success of the model, including information about applicants, borrowers, types of devices and services obtained, financial data, repayment data, and the impact of the loan program on the lives of individuals with disabilities; and

(xiv) Provides an appropriate methodology to assess the extent to which the model is replicable.

(3) *Management plan* (Weight: 5; Total Points: 25) The project includes a plan for the management of project activities that—

(i) Includes an adequate number of staff qualified by training and experience necessary to implement the activities under the project grant;

(ii) Appropriately manages and accounts for the fiscal resources of the project;

(iii) Provides evidence of the fiscal responsibility of the applicant organization and its designated fund managers;

(iv) Provides for appropriate monitoring of the use of project resources and financial audits of the project;

(v) Details internal procedures for the management of the resources under the grant, including the specification of responsibilities and administrative authority and provisions for internal monitoring of progress;

(vi) Includes realistic timelines for the implementation of project activities so as to ensure accomplishment of proposed goals and objectives within the time period proposed in the application;

(vii) Allots sufficient and appropriate resources from the grant or other sources for the accomplishment of the proposed project activities;

(viii) Provides for the appropriate use of interest earned on loans and on the loan fund; and

(ix) Provides for the appropriate use of grant funds at the conclusion of the grant period.

(4) *Involvement of individuals with disabilities* (Weight 3; Total Points: 15) The project includes individuals with disabilities or their families or representatives in—

(i) The identification and assessment of the needs of the target population;

(ii) The design of the loan program;

(iii)The conduct of project activities and the management of the project;

(iv) The evaluation of project accomplishments; and

(v) The dissemination of project results.

(5) *Evaluation plan* (Weight: 3; Total Points: 15) The project includes an effective plan for evaluating the progress made toward accomplishment of the goals and objectives of the project that—

(i) Specifies adequate indicators of accomplishment for each of the goals and objectives;

(ii) Specifies appropriate measures to be used and the data elements needed for these measures that will result in an adequate evaluation;

(iii) Specifies appropriate sources of data and feasible and appropriate data collection methods to be used for each measure;

(iv) specifies appropriate methods of data analysis that are likely to yield objective and meaningful evaluation results; and

(v) Allocates sufficient resources, including personnel, funds, and administrative priority, to the evaluation.

(Authority: 29 U.S.C. 2211–2271)

Subpart E—What are the Additional Requirements of a Grantee?

§ 346.40 What are the requirements that apply to a grantee for coordination and information sharing?

The Secretary may require each grantee under this program to provide information, including data about program activities and results, to—

(1) Grantees under the State Grants for Technology-Related Assistance for Individuals with Disabilities program;

(2) The entity providing technical assistance to the State grants program as prescribed in section 106(b)(1) of the Act;

(3) Agencies designated by Governors to make applications under the State grants program;

(4) Entities conducting evaluations of this program for the Secretary;

(5) The Secretary directly; and

(6) Any other entity designated by the Secretary.

(Authority: 29 U.S.C. 2211–2271)

§ 346.41 What is the requirement for cost-sharing under this program?

(a) For model delivery projects and research and development projects, the Secretary may require cost-sharing by announcing in the application notice for the program that cost-sharing will be required.

(b) For direct loan demonstration projects, the Secretary may require that the grantee's share of the cost be at least ten percent of the cost of the project by announcing that requirement in the application notice in the **Federal Register.**

(Authority: 29 U.S.C. 2261(3) (a) and (b))

[FR Doc. 90–8727 Filed 4–13–90; 8:45 am]

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federal register

Monday
April 16, 1990

Part VII

Department of Labor

Mine Safety and Health Administration

30 CFR Part 75

Safety Standards for Roof, Face and Rib Support; Final Rule

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 75

RIN 1219-AA58

Safety Standards for Roof, Face and Rib Support

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

ACTION: Final rule.

SUMMARY: This final rule exempts certain anthracite coal mines from the provisions of 30 CFR 75.206(a). This standard contains requirements for the use of conventional roof support but does not address the specific mining conditions unique to anthracite mining. The standard would continue to apply to bituminous mines and to anthracite mines using mechanized continuous or mechanized conventional mining methods.

EFFECTIVE DATE: May 16, 1990.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, phone (703) 235-1910.

SUPPLEMENTARY INFORMATION:

I. Background and Discussion of Final Rule

The Mine Safety and Health Administration (MSHA) is revising its existing safety standard in 30 CFR 75.206(a) which applies to roof support in underground coal mines.

On January 27, 1988 (53 FR 2354) MSHA published final rules revising its safety standards for roof, face and rib support in underground coal mines. On July 20, 1989, MSHA published a proposed rule in the Federal Register (54 FR 30510) that would exempt certain anthracite mines from the provision of 30 CFR 75.206(a). The comment period for this proposal ended on September 18, 1989. No comments were received with respect to the proposal.

Section 75.206 sets out requirements for the use of conventional roof supports. Existing paragraph (a) of § 75.206 addresses mines that only use conventional supports and limits the width of entries in these mines to 20 feet. In addition, this paragraph also contains standards that address the spacing and number of supports in and around roadways. After further review of these requirements and of the unique ground control conditions in the pitching anthracite coal seams, MSHA determined that this provision is inappropriate for anthracite mines and exempting certain anthracite mines will not result in a diminution of safety.

As noted in the preamble, the requirement that the width of openings be limited to 20 feet when using only conventional support was derived from previous criteria provisions (53 FR 2359). A review of the history of application of these provisions in roof control plans indicates that they have never been applied to anthracite mines. In fact, most entry widths in anthracite mines are ten feet or less and the areas where widths exceed 20 feet have been successfully addressed in individual plans. MSHA believes that the safest approach for addressing roof support safety issues in anthracite mines having widths exceeding 20 feet is through the roof control plan process. This approach would ensure that the roof control conditions unique to anthracite mines are properly addressed on an individual basis.

Discussions in the preamble to the 1988 final rule also consistently referred to the use of roof bolts to achieve compliance with the requirements of paragraph (a). For example, the preamble states that the Agency concluded that a combination of roof bolts and conventional support is necessary to support openings wider than 20 feet (53 FR 2359). Use of roof bolts would not be a practical or safe option in most anthracite mines that contain pitching seams that preclude the use of mechanized roof bolting equipment. The requirements in the standard and discussions in the preamble also consistently referred to roadway widths, which are relevent to bituminous coal mines using conventional supports, but do not address anthracite mines where gangways are used and entries are often fully supported. In addition, the type of heavy equipment for which roadways are necessary is not used in most anthracite mines.

The preamble to the 1988 final rule also referred to 71 mining sections that the Agency estimated to be mining openings greater than 20 feet in width and only using conventional supports. The text goes on to state that to continue mining, these mines would be required to use roof bolts in conjunction with conventional supports. The preamble makes no mention of the potential impact of this standard on anthracite mines. However, because the use of roof bolts is considered the only means of compliance with the standard, it seems clear that this potential impact upon anthracite mines was not considered during the development of the standard.

The final rule differs from the proposal in that it recognizes that some anthracite mines may use mechanized continuous or mechanized conventional type mining methods. In such mines, the provisions of § 75.206(a) would still be appropriate. Therefore, the final rule does not exempt these anthracite mines.

II. Executive Order 12291 and the Regulatory Flexibility Act

This rule modifies a previously issued rule. MSHA determined that the rule would not result in major cost increases nor have an incremental effect of $100 million or more on the economy. The Agency also determined that the final rule will not have a significant impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

III. Paperwork Reduction Act

This final rule does not contain any information collection requirements subject to the Paperwork Reduction Act of 1980.

IV. List of Subjects in 30 CFR Part 75

Mine safety and health, Underground coal mines, Roof, face and rib support.

Dated: April 10, 1990.

William J. Tattersall,

Assistant Secretary for Mine Safety and Health.

Therefore, part 75, subchapter O, chapter I, title 30 of the Code of Federal Regulations is amended under 30 U.S.C. 811 as follows:

PART 75—MANDATORY SAFETY STANDARDS—UNDERGROUND COAL MINES

1. The authority citation to 30 CFR part 75 continues to read as follows:

Authority: 30 U.S.C. 811, 957, and 961.

2. Section 75.206(a) is revised to read as follows:

§ 75.206 Conventional roof supports.

(a) Except in anthracite mines using non-mechanized mining systems, when conventional roof support materials are used as the only means of support—

* * * * *

[FR Doc. 90-8782 Filed 4-13-90; 8:45 am]

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S. 386/Pub. L. 101–271

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[2] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1989. The CFR volume issued January 1, 1987, should be retained.

[3] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[4] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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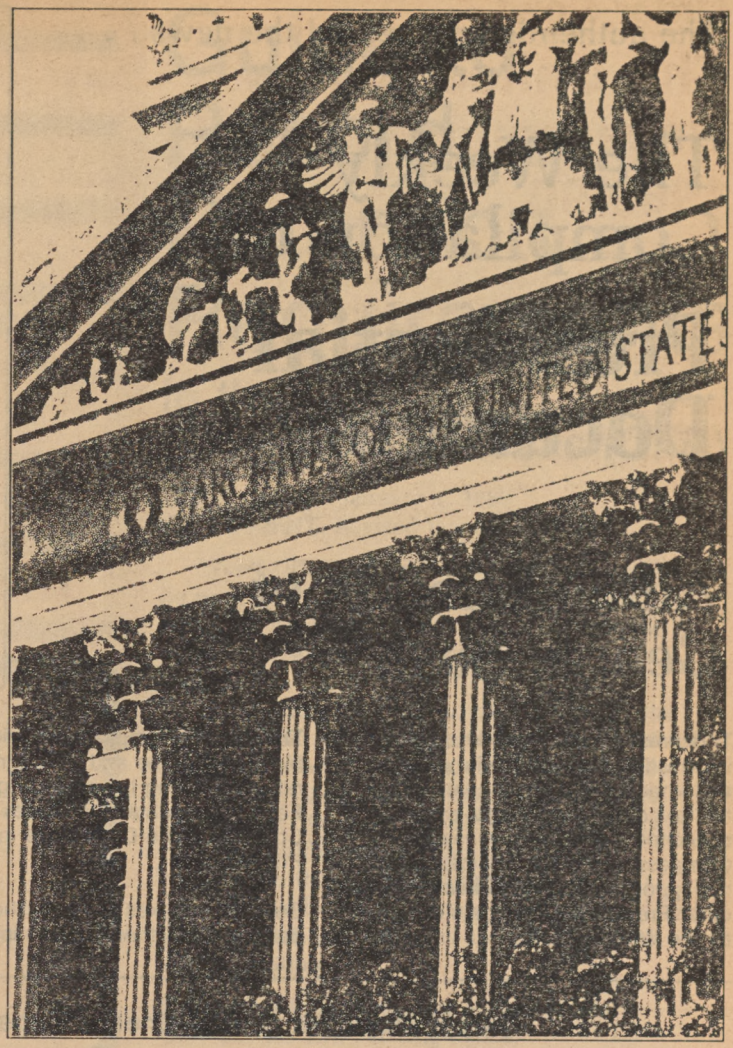

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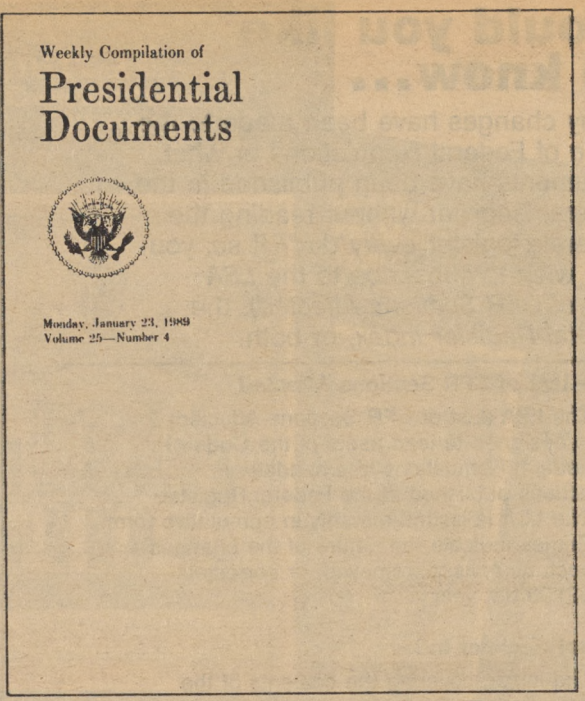

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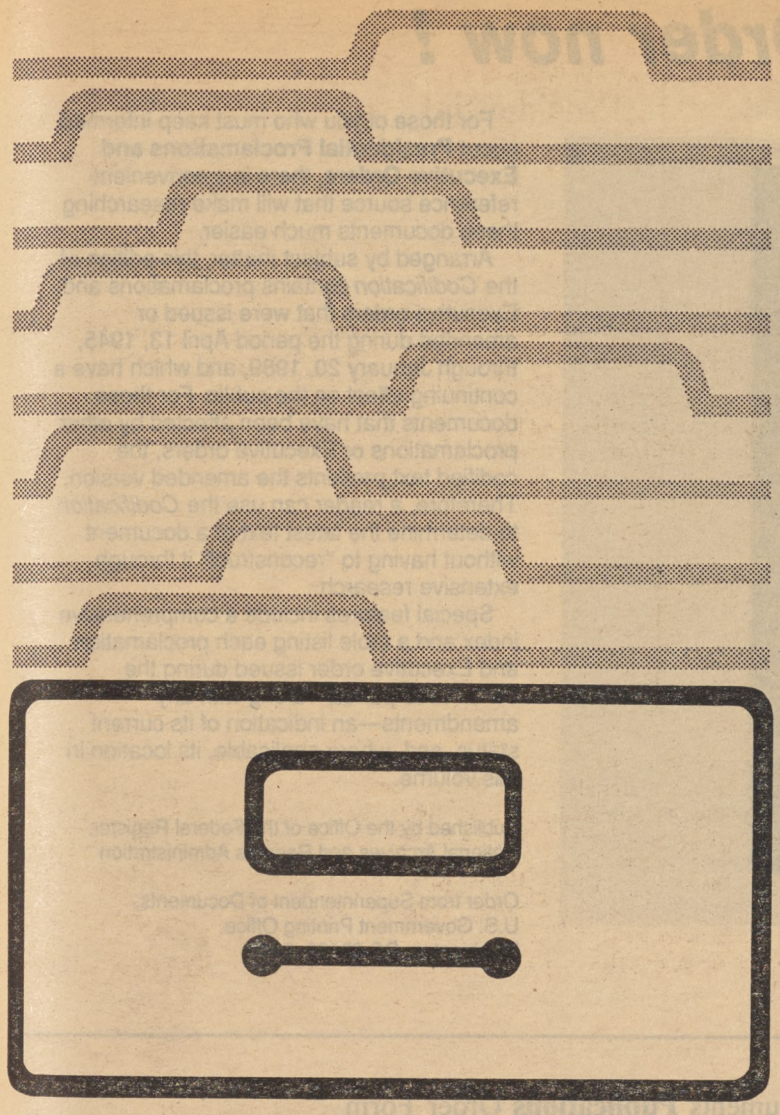

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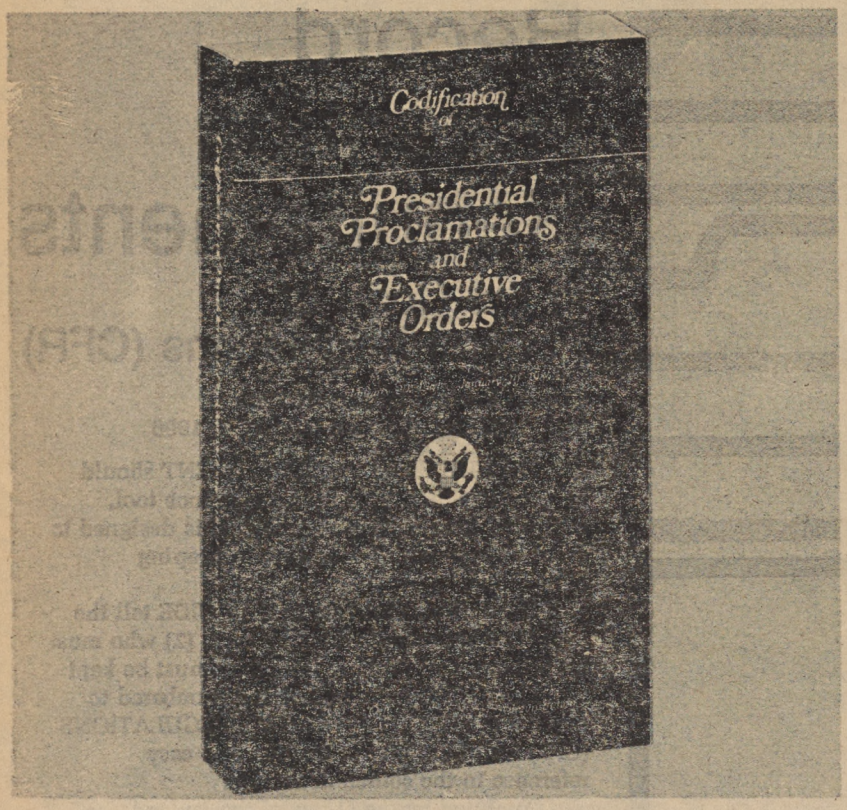

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